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A N

A W A R D

OF

KING CHARLES I.

UNDER HIS BROAD SEAL,

SETTLING

TWO SHILLINGS of the POUND out of the Rents of the Houſes in NORWICH, for the Maintenance of the Parochial Clergy of that City, in lieu of Perſonal Tithes.

WITH A

T R E A T I S E

VINDICATING

The Legality and Juſtice of that AWARD.

By HUMPHREY PRIDEAUX, *D. D.*
Late DEAN of NORWICH.

L O N D O N:
Printed for the EDITOR; and ſold by G. ROBINSON, in *Pater-noſter-Row*, and J. W. PIERCY, in *Coventry*.

M,DCC,LXXV.

TO THE

SERIOUS AND CANDID

CONSIDERATION

OF THE

INHABITANTS

OF

COVENTRY,

THE FOLLOWING SHEETS,

WHICH TEND TO THROW SOME LIGHT UPON THEIR CASE OF TITHES,

ARE,

WITH ALL DUE RESPECT,

RECOMMENDED BY

THE EDITOR.

AN

AWARD

OF

King CHARLES the First.

Under his Broad-Seal, ſettling Two-Shillings of the Pound out of the Rents of Houſes in NORWICH for the Maintenance of the Parochial Clergy of that City.

CHARLES, by the Grace of God, King of *England*, *Scotland*, *France* and *Ireland*, Defender of the Faith, &c. greeting. Whereas upon a petition preſented unto us in the name of the Parſons, Vicars, and Curates, within our city of *Norwich*, complaining, that the moſt of them had neither certainty, nor competency for the means of their living, but were forced to depend upon the over ſmall and arbitrary benevolence of the people; We ourſelves were pleaſed at our council-board at *Whitehall*, *Jan.* 21, 1637, to hear, as well the petitioners,

tioners, and our Attorney General on their behalf, as ſome of the magiſtrates and citizens of our ſaid city, and their council, concerning the truth of the ſaid complaint. And afterward ſitting in council, *April* 1, 1638, we received two writings, or acts of free and voluntary ſubmiſſion unto our royal judgment and determination; the one of which writings was as followeth:

To our moſt gracious Sovereign Lord *Charles*, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the faith, &c. We your Majeſty's moſt humble and devoted ſubjects, the Mayor, Sheriffs, Citizens, and Commonality of the city of *Norwich*, do moſt humbly certify, that at a common council holden in the chamber of the *Guildhall* of the city of *Norwich*, the ſixteenth day of *March*, in the thirteenth year of your Majeſty's moſt happy reign, before *Robert Sumpter*, Mayor of the ſaid city, *Tho. Cory*, *Alexander Anguiſh*, *Chriſtopher Barrett*, *John Toly*, *Richard Harman*, *Henry Lane*, *William Goſtlyn*, *John Loveland*, *Thomas Carver*, *Richard Ward*, *Thomas Barber*, and *John Thacker*, Aldermen, and *John Lombe* and *Matthias Sotherton*, Sheriffs of the ſaid city of *Norwich*, and the greater number of the commoners of the Common Council of the ſaid city aſſembled then and there, among other things it is enacted, *viz.* The ſaid court of Common Council in all humbleneſs have ſubmitted themſelves to your Majeſty's moſt gracious judgment and award, touching the difference depending before your Majeſty, between the Parſons and Vicars of *Norwich*, and the pariſhioners of the ſeveral pariſhes of the ſame concerning tithes. In witneſs whereof, We, the ſaid Mayor, Sheriffs, Citizens, and Commonality of the ſaid city of *Norwich*, have cauſed the common ſeal of the ſaid city to be hereunto put. Dated in the ſaid chamber, of the *Guildhall* of the city of *Norwich*, the ſixteenth day of *March*, in the thirteenth year of your Majeſty's moſt happy

happy reign of *England*, *Scotland*, *France* and *Ireland*.

For further explanation whereof, the above-named Aldermen, *Alexander Anguiſh*, and *John Toly*, profeſſing that they had ſufficient power from the ſaid city, touching the ſaid ſubmiſſion, did declare, That the ſtipendiary miniſters, of the ſaid city, were not leſs intended in that their act, although none but the Parſons and Vicars were mentioned in the ſame.

And the other of the above-named writings were in theſe words.

Auguſtiſſimo in Chriſto Principi, ac Sacratiſſimo Domino meo, Domino Carolo Dei gratia, Angliæ Scotiæ, Franciæ, & Hiberniæ, Regi, Fidei Defenſori, &c. Humillimus veſter & devotiſſimus ſervus Mathæus permiſſione divina Norvicenſis Epiſcopus cum omni veneratione humiliter ſignificat, quod primo die Martii jam incurrentis Rectores, Vicarii, & Curati Eccleſiarum Parochialium infra Civitatem veſtram Norvicenſem, & libertates ejuſdem, in conſiſtorio Epiſcopali Norvicenſi ſponte comparentes coram Clemente Corbet, Legum Doctore, Vicario meo in Spiritualibus Generali, Schedulam quandam de ſubmiſſione per ipſos facta in cauſa ſuorum reſpective ſtipendiorum, & alimoniarum, prout ſereniſſimæ veſtræ Majeſtati placuerit arbitrari inter ipſos, & dictæ Civitatis Incolas, unanimiter exhibuerunt, eandemq; per unum ipſorum vice & nomine reliquorum publice perlectam Dioceſano ſuo tranſmitti petierunt, prout ex dicta ſchedula præſentibus annexa pariter cum dicti Vicarii mei Generalis certificartorio plenius apparet. Ego vero præfatus Mathæus Epiſcopus Norvicenſis dictum Cleri Norvicenſis conſenſum, dictamq; ſubmiſſionem in annexa ſchedula cum nominum ſuorum, & cognominum ſubſcriptione ſigillata munitam authoritate mea Epiſcopali, quantum de jure poſſum, confirmo, & ratifico,

ratifico, necnon pro Rectoribus Ecclesiarum Sancti Edmundi, & Sancti Petri de Hungate, & Sancti Michaelis ad Placita jam vacantium assensum & consensum meum Episcopalem antedictæ submissioni ad omnem juris effectum quantum in me est, præbeo atque Canonice exhibeo. In quorum omnium fidem sigillum meum Episcopale præsentibus apposui. Datum in Ædibus meis infra septa Ecclesiæ vestræ Collegiatæ Sancti Petri Westmonasterienſis tricesimo die Martii, Anno Domini 1638, & Sereniſſimæ vestræ Majestatis Regni Anno decimo quarto.

And the Schedule annexed was this:

In Dei nomine Amen, Coram vobis Clemente Corbet Legum Doctore Reverendi in Christo Patris, ac Domini Domini Mathæi permissione divina Norvicensis Episcopi, Vicario in Spiritualibus Generali, ac Curiæ ejusdem Consistorialis Norvicensis Officiali principali legitime constituto, Nos Rectores, Vicarii, atque Curati Ecclesiarum Parochalium infra Civitatem Norvicensem, & Libertates ejusdem, considerantes, quod variæ querelæ, & controversiæ circa solutionem decimarum, oblationum, aliorumque jurium Ecclesiasticorum, sive Pensionum, aut quocunque alio nomine censeantur, aut censenda sint, annua stipendia, atque salaria, quæ de singulis respective Parochiis infra Civitatem & Libertates prædictas pro sustentatione, & alimonia nostra, quocunque modo solvi solent, aut debent, jam pridem ortæ motæq; fuerint inter nos ex una parte, Civesq; & Inhabitantes dictæ Civitatis & Libertatum ex altera, necnon quod ipe stabiliendæ pacis & concordiæ imperpetuum inter partes prædictas circa præmissa dilecti fratres nostri Foulco Roberts Sacræ Theologiæ Bacclaureus, & Gulielmus Allonson, Artium Magister, nuper in sereniſſimum in Christo Principem & Dominum nostrum Carolum Angliæ, Scotiæ, Franciæ, & Hiberniæ,

Hiberniæ Regem, Fidei defensorem, &c. nomine suo nostroque cum consensu Reverendi in Christo Patris ac Domini Domini Mathæi Norvicensis Episcopi supradicti, inque præsentia dicti Domini Regis verbo tenus compromiserunt. Idcirco nos antedicti Rectores, Vicarii, & Curati in majorem præmissorum fidem & stabilimentum omne jus, titulum, & interesse nostra in præmissis, aut circa eadem, per præsentes cum omni, qua par est humilitate, & veneratione, pro nobis & successoribus nostris submittimus, & omnino subjicimus judicio, arbitramento, placito, & finali determinationi Augustissimi Domini Regis antedicti, spondemusque & sancte promittimus, nos ratum, gratum, sanctumque habituros imperpetuum, quicquid Augustissimo Domino nostro Regi Carolo antedicto placuerit, in & circa præmissa ordinare, statuere, & determinare. Deus optimus maximus augustissimam Regis Caroli Majestatem, sereniſſimam Reginam Mariam, excellentissimum Principem Carolum, reliquamque Regiam prosapiam diutissime servet incolumes, annorumque tandem saturos in cœlestis Throni gloriam, sed seros evehat.

Subscribed with the names of thirty one of the aforesaid Parsons, Vicars, and Curates.

We having well and maturely considered the whole business, and of our Princely goodness intending to provide some competencies of livelihood and maintenance, of which the clergy of that city shall be duly and legally ascertained, thereby to cut off all future occasion of complaint and controversy in that behalf, and to settle peace and a mutual correspondence of love and amity between the said Clergy and the Inhabitants of our said city, do by these presents declare and express our final determination, arbitrement, and award between all parties before mentioned in form as followeth:

Foraſmuch as it is given us to underſtand, that the inhabitants of our city of *London* do pay for their tithes unto their Miniſters after the rate of two ſhillings and nine-pence in the pound, and that in our city of *Canterbury*, the inhabitants of one pariſh do pay according to the ſame rate, and in all the other pariſhes there, after the rate of two-ſhillings and ſixpence, and that in our city of *Coventry* by Act of Parliament *Quarto & Quinto Philippi & Mariæ* the maintenance of their miniſters is provided after the rate of two ſhillings in the pound, which rate not only is allowed by the general courſe of the canon law, by way of tithes *pro penſionibus Domorum*, but alſo is now obſerved and paid in ſome pariſhes within the counties of *Middleſex*, *Eſſex*, *Kent*, and *Surry*, adjoining to our city of *London*, and that leſs than the ſaid rate of two ſhillings in the pound, is no where accuſtomed and eſtabliſhed. We therefore award, order, and decree, that the ſaid rate of two ſhillings in the pound, and ſo proportionably for every leſſer or greater rent or value, ſhall from henceforth for ever be due, and payable in every pariſh within our ſaid city of *Norwich*, and the liberties thereof, in lieu of tithes, according to the rates and values of all houſes, ſhops, ſheds, warehouſes, cellars, and vaults, and of all water-mills, wind-mills, and horſe-mills, and of all ſtandings, and ſtalls in the ſtreets, and markets, and of all brick-kilns, tile-kilns, and lime-kilns, and of all wharfs, yards, orchards, gardens, waters and ponds, and of all other grounds, edifices, or buildings whatſoever, within the ſaid ſeveral pariſhes, and to be paid by the owners or occupiers of any of the premiſes unto the miniſters, whether they be Parſons, Vicars, or ſtipendiary Prieſts of that pariſh, wherein any of the ſaid particulars are ſituate and being, or whereof the ſame have for the ſpace of twenty years laſt paſt by occaſion of any conſolidation, union, preſcription, uſage,

uſage, or cuſtom been commonly taken and reputed to be.

And our Will, and Royal Pleaſure, and Decree is, that the ſaid rates and values ſhall be taken, and accounted according to the true yearly rent or rents, for which any of the particulars aforeſaid, are now demiſed and letten, or for which they are now reaſonably worth and fairly to be demiſed and letten by the year, and for which they ſhall and may hereafter from time to time be yearly demiſed and letten, without taking any fine for the ſame, or uſing any other device or conveyance, by which the whole true yearly value and rent may in any wiſe be diſguiſed, leſſened, defaulked or abated.

And we further declare, order, and award, that the ſaid payment ſhall be made every quarter rateably, that is to ſay, at the feaſt of St. *Michael the Archangel*, the *Birth of our Lord God*, the *Annunciation of the Bleſſed Virgin Mary*, and of St *John the Baptiſt*, or within ſix days after every of the ſaid feaſts for ever. The firſt payment to be made at the feaſt of St. *Michael* the *Archangel* next following after the date of theſe preſents. And in caſe it ſhall happen that any perſon or perſons whatſoever ſhall at any time refuſe to pay unto the miniſter of any pariſh within the ſaid city, and the liberties thereof, according to the rate thus by us determined, or any parcel as above ſpecified, and being or reputed to be ſituate within the ſaid pariſh, or ſhall conceal and refuſe to declare what the true rent of the ſame is, or if any queſtion, difference, or controverſy ſhall at any time hereafter ariſe touching the true rent or rents, or the true and reaſonable value or values of any of the premiſes, our Royal order, decree, and determination is, that the ſame ſhall be heard, and determined either in our High Court of *Chancery*, or in the Conſiſtory of the Biſhops of *Norwich*, as to the ſaid Mi-

niſters ſhall be found meet to make their complaint, to be proceeded in according to the ordinary courſe of the ſaid courts for all other cauſes, and that in this caſe our Royal Writ of Prohibition againſt the Biſhops of *Norwich*, or their Chancellors, Commiſſaries, Officials, or their Surrogates in the ſaid court of Conſiſtory ſhall not be granted. And if any ſuch writ be at any time obtained out of any of our courts of juſtice contrary to this our decree, and arbitration, our Royal Will and Pleaſure is, that upon ſight of this our Award and Determination, the Judge or Judges of the ſaid court ſhall forthwith grant a conſultation to the behoof of the Miniſter, craving the ſame, with his reaſonable coſts and charges for the ſame; and to this end our expreſs Will and Pleaſure is, that this our preſent Award and Determination ſhall be iſſued and confirmed under our Great Seal, of *England*, and ſhall be recorded in our ſaid High Court of *Chancery*, and alſo in the ſaid Conſiſtory Court of the Biſhop of *Norwich*.

Provided nevertheleſs, that if any of our loving ſubjects, inhabiting within our ſaid city, and the liberties thereof, ſhall at any time find juſt cauſe of grievance againſt the proceedings of the ſaid Court of Conſiſtory, touching any of the premiſes, they ſhall not by this our Determination be precluded from any ſuch legal appeal or appeals, as in any other cauſe or cauſes is accuſtomed.

And further, We do order and decree, that if within any of the pariſhes of our ſaid city of *Norwich*, and the liberties thereof, any corn-ground, root-ground, ſaffron-ground or weld-ground now be, or at any time hereafter ſhall be, the ſame ſhall herein be always and wholly excepted, as not intended to be any way compriſed within this our final Award and Determination, but to be left in the ſame ſtate and condition, wherein any ſuch grounds are known to

be

be within the ſaid city and the liberties thereof, and to pay their accuſtomed tithes, according as is already by any uſage or law eſtabliſhed.

And We do moreover declare, that our Royal Award and Decree is, That the Chaplain of our hoſpital of St. *Giles* within our ſaid city ſhall from time to time for ever yearly have, receive, and enjoy, the benefit of this our Decree and Determination, as touching the pariſhioners and inhabitants of the pariſh of St. *Helens* annexed to the ſaid hoſpital, over and above the annual ſalary or ſtipend of twenty pounds, or thereabout, which is now paid him out of the revenues of the ſaid hoſpital, together with the habitation or dwelling houſe, which as Chaplain of the ſaid hoſpital he now enjoyeth.

And laſtly, Our Royal Will and Pleaſure, Award and Judgment is, That neither by the Mayor, Sheriffs, Juſtices, and Commonality of our ſaid city of *Norwich*, nor by the pariſhioners of any of the ſaid ſeveral pariſhes any new taxes, aſſeſſments, or impoſitions ſhall at any time for any occaſion be laid upon any of the ſaid Miniſters otherwiſe than as hath in former times been orderly uſed and accuſtomed: reſerving nevertheleſs power unto ourſelves, or to the Lord Biſhop of *Norwich*, for the time being, by authority from us under our ſignet, or privy ſeal, from time to time to aſſeſs or appoint any one or more penſions out of the means, which by this our Royal Award, ſhall yearly ariſe, and accrue in the three pariſhes of St. *Andrew*'s, St. *Peter*'s of *Mancroft*, and St. *Stephen*'s, ſo that the ſaid penſion or penſions in the whole exceed not the tenth part of the ſaid annual means, and the ſaid penſion or penſions ſo aſſeſſed and appointed to allot and aſſign to be quarterly paid and diſtributed by the Miniſters of the ſaid three pariſhes, unto and among ſuch other of the Miniſters of the pariſhes within our ſaid city,

city, according as ſhall be thought meet to ourſelves, or to the ſaid Lord Biſhop by authority from us, whoſe means will not be found to ariſe to any convenient competency of living, although they do enjoy the benefit of this our Deciſion, Award, and Determination,.

In witneſs whereof we have cauſed theſe our letters to be made patent. Witneſs ourſelf at *Canbury*, the ſeventh day of *Auguſt* in the fourteenth year of our reign.

Per ipſum Regem

WOLSELEY.

Indorſed,

An Award made by his Majeſty for the Miniſters of *Norwich*, for Two Shillings in the Pound.

WOLSELEY.

A VINDI-

A

VINDICATION

OF THE FOREGOING

AWARD of King CHARLES I.

Wherein is ſhewed the Juſtice and Legality of it; and alſo that perſonal Tithes, in lieu of which the Payment of Two Shillings of the Pound out of the Rents of Houſes was decreed by this Award *are ſtill due by the Law of the Land; and that there is a Neceſſity of again reſtoring them or ſettling ſomething elſe in lieu of them for the Maintenance of Miniſters in the Cities and larger Towns of the Realm.*

THIS Award having been made a little before the civil wars broke out, the power which the parliament from the firſt beginning of thoſe unhappy commotions obtained in the aſſociated counties, (of which *Norfolk* was one) quaſhed it, before it was ever thoroughly put in execution. For the exorbitant power of the King's-privy council (as they were pleaſed to term it) being one of the pretended grievances for the remedy of which that war was made, wherever the parliament obtained the power, they condemned and annulled whatſoever his Majeſty had in council decreed. And therefore this Award having been made by his Majeſty in council, it was looked on as an effect of that exorbitant

bitant power they complained of, and as ſuch was over-ruled and ſuppreſſed by the rebels, as ſoon as they had got the maſtery in this city, which was as ſoon as the wars begun: For *Cromwell* having in the beginning of that rebellion, when only a Captain of horſe, ſecured the county of *Norfolk*, by ſeizing all the gentlemen of it, that were for the King, and carrying them priſoners to *Cambridge*, the city of *Norwich* was thenceforth wholly under the power of the parliament. And from that time this award having been ſuppreſſed during the whole continuance of that rebellion, the great change that happened during that interval joined with the ſhort continuance of the ſaid Award in its firſt eſtabliſhment, made it ſo forgot at the reſtoration, (which was the proper time for its re-eſtabliſhment) that it was never again revived, or taken the leaſt notice of ever ſince. For all that had been Miniſters of the city in the beginning of the wars, being then either dead, or otherwiſe removed, and all others gone off the ſtage, that were any way concerned in this matter, thoſe who were ſettled in the parochial cures of this city on the reſtoratian, and whoſe intereſt it was to have this Award again put in execution, knew nothing of it, and therefore were content to go on to ſerve their cures upon the ſame bottom of arbitrary contributions, on which their predeceſſors left them, and ſo it hath continued ever ſince. And among the ſeveral attempts that have been made for the eſtabliſhing of a ſettled maintenance for the parochial clergy of this city, as in the years 1677. 1685, and 1704, not any the leaſt mention of this Award was ever made that I can hear of. And ſince the mentioning of it would very much have ſerved that deſign, we may be confident it would not have been omitted by thoſe who were for the promoting of it, had they known any thing thereof. And altho' I have now been here above five and twenty years, I never heard any thing of it till I was lately told, that there

there was a regiſtration of it in the principal regiſtry of the Biſhop of *Norwich*. That was ſufficient to aſſure me, that there was ſuch a thing. But the original, which is there ſaid to be in the keeping of the Dean and Chapter of *Norwich*, not being, I was ſure, among our writings in our evidence room, which I had ſeveral timeslooked all over, I took it for certain, that it had been either deſtroyed in the late wars, or ſince loſt, till lately having occaſion to examine our Chapter Clerk's office on a changing of that officer, I there very unexpectedly found it made up among the old *Conge d' Eſlires*, where through the ignorance of a former officer it had been miſplaced. And therefore having thus again brought it to light, after it had for ſo many years lain hid, I think it my duty to make it as publick as I can, hoping that ſometime or other it may obtain that good effect for the honour of God, and the good of his church, for which it was firſt intended, by procuring, if not a ſubmiſſion thereto, yet at leaſt ſome other ſuch ſettlement by the unqueſtionable authority of Parliament to be eſtabliſhed in its ſtead for the ſame end. And that it might do ſo, not only at *Norwich*, but alſo in all other places, where there is the like need of ſuch a ſettlement, is the reaſon that I have added this preſent treatiſe for the juſtifying of it.

The grand objection againſt it being, that it was not in the power of the King and his council to make ſuch a decree, becauſe it is the laying of a new tax upon the people, which none but the parliament can do; and for this reaſon it having been condemned, and annulled, in the late times, and ever ſince ſuppreſſed, I ſhall for the removal of this objection, and the clearing of all things elſe that may be ſaid againſt it, endeavour to ſhew,

I. The legality of this Award; and then,
II. The juſtice and reaſonableneſs of it. And

I. As to the legality of this Award, that which

is hereby decreed is not a new tax impoſed upon the people of *Norwich*, but a moderate compoſition for an old and juſt due, which ought to be paid: For the two ſhillings of the pound decreed by this Award is in lieu of perſonal tithes, which are due to the miniſters from all the tradeſmen of the city out of the gains which they make by their trades. And if theſe tithes are ſtill due, then the inhabitants of the city can make ſuch a compoſition for them as ſhall be binding on them and their ſucceſſors. And if they can themſelves make ſuch a compoſition, then certainly they can impower another, by way of Award, to make it for them. And therefore ſince all the inhabitants of the city of *Norwich*, by their juſt repreſentatives met in common council, of the one part, and all the parochial clergy of the ſaid city, with the Biſhop of the Dioceſe, on the other part, did wholly ſubmit this matter to the arbitration of King *Charles* the firſt, and he did, being thus impowered by both parties, make this Award of two ſhillings of the pound of the rents of all houſes in the ſaid city. to be paid to the miniſters of the pariſh churches therein, as a compoſition in lieu * of all perſonal tithes. If any other Award made on the thorough ſubmiſſion of both parties be good in law, then certainly this ſo ſolemnly made by the King in council, and on ſo thorough a ſubmiſſion antecedent thereto, muſt be good in law alſo.

But to make this appear more fully and clearly in all its particulars, I ſhall ſhew, 1ſt, That perſonal tithes are ſtill due by the law of the land. 2dly, That the people and their miniſters can make ſuch a compoſition for them, as ſhall hold good in law, and bind their ſucceſſors to the obſervance of it. And 3dly, That this compoſition was ſo made, and therefore it is ſtill in force.

But

* *The Award ſaith*, That the ſaid payment is in lieu of tithes; *but no other tithes can be there meant but perſonal tithes, becauſe in moſt of the pariſhes of the ſaid city of* Norwich, *there can none other ariſe.*

But that it may be underſtood what is meant by perſonal tithes, it will be neceſſary that I premiſe, that tithes are of three ſorts, 1ſt, Predial, 2dly, Perſonal, and 3dly, Mixed. Predial tithes are of all ſuch things as grow up *e prædio*, that is out of the ground, whether they be grain, herbage, or the fruits of trees. Perſonal tithes are of ſuch profits as are gained by the labour and induſtry of man, as by merchandize, handycraft trades, or any other labour and employment, (beſides huſbandry) by which men get their livings. Mixed tithes are of ſuch things as ariſe partly of the ground, and partly of the labour and induſtry of men, as calves, lambs, pigs, milk, cheeſe, honey, and ſuch like. As Predial and Mixed tithes are for the maintenance of Miniſters in country pariſhes, where they ariſe, ſo Perſonal tithes are for the maintenance of Miniſters in towns and cities, where other tithes do not ariſe, and therefore theſe latter are as neceſſary for the ſupport of God's worſhip as the other.

And that theſe Perſonal tithes, are as much due in towns and cities as Predial and Mixed tithes are in country pariſhes, doth appear from hence, that there are the ſame laws ſtill in force for the one, that there are for the other, and the ſame uſage of antiquity to juſtify the Miniſters claim to them. * St. *Ambroſe*, who lived within the fourth century after Chriſt, tells us, that tithes are to be paid out of the profits of trade, and hunting, as well as out of corn and wine, the fruits of trees and the products of animals. And St. *Auſtin*, who was his cotemporary, lays it down as a rule, † That God requires

 tithes

* Quid eſt fideliter decimas dare, niſi ut nec pejus, nec minus aliquis Deo offerat aut de grano ſuo, aut de vino ſuo, aut de fructibus arborum, aut de pecoribus, aut de hortis, aut de negotiis, aut de ipſa venatione ſua? Ambroſ. Ser. 35. inferia tertia.

† Quod ſi decimas non habes fructuum terrenorum, quos habet Agricola; quodcunq; te paſcit ingenium Dei eſt; inde decimas expetit, unde vivis; de militia, de negotio, de artificio redde decimas; aliud enim pro terra rependimus, aliud pro uſura vitæ penſamus. Auguſtinus de tempore, Serm. 219. tom. 10. p. 335. Edit. Colon.

tithes of every thing, whereby men live, not only of the fruits of the earth, but alſo of their employments, becauſe God gives ingenuity for thoſe employments, as well as his bleſſing for the fruits of the earth, and conſequently both being from him, there is due to him a tribute for both. And therefore he earneſtly exhorts his people to pay tithes of the profits, which they receive by war, by merchandize, and by handy-craft trades. And in the council of *Sevil*, in *Spain*, held *Anno Dom.* 590, * it is decreed, That every tradeſman ſhould pay tithes of the gain of his trade, as well as the huſbandman of the product of the ground. And *Egbert* who was made Archbiſhop of *York*, *Anno Dom.* 735, in thoſe canons, which he collected for the government of his province, preſcribes, † That tithes be paid out of all thoſe employments, by which men gain their livings, as of the gain of warfare, merchandize, and handy-craft trades, as well as of other things. And *Charlemaine* in his capitulars publiſhed *Anno. Dom.* 789, ‡ enjoins, that men pay tithes of their labour, as well as of their ſubſtance. And in the council of *Arles*, held *Anno. Dom.* 813, it was decreed, § That every man ſhould offer to God the tithes of his proper labours.

And here in *England*, among the laws of King *Edward* the Confeſſor, which were gathered into a body

* Omnis ruſticus & artifex quiſque de negotiis juſtam decimationem faciat ſicut enim Deus omnia dedit, ita de omnibus decimam exigit. concil. Sivil. con. 5.

† Decimæ tributa eccleſiarum ſunt——O homo inde dominus decimas expetit, unde vivis, de militia, de negotio, de artificio redde decimas, non enim eget dominus noſter, non præmia poſtulat, ſed honorem. Can. 100. Spelmani Concil Anglican. tom. 1. p. 268.

‡ Secundum Dei mandatum præcipimus, ut omnes decimam partem ſubſtantiæ, & laboris ſuis eccleſiis & Sacerdotibus donent, tam nobilis quam ingenui, & liberi. C. 17. Baluz. tom. 1. p. 253. Et iterum Ann. 800. volumus ut judices ex omni collaboratu pleniter donent ad eccleſias, qua ſunt in noſtris fiſcis. Baluz, tom. 1. p. 332.

§ Unuſquiſque de propris laboribus decimas & primitias Deo offerat. Can 9.

body by a Parliament * of twelve men out of every county, called together for this purpoſe by King *William* the Conqueror, and ratified and confirmed by that King, and publiſhed by him as the ſtanding laws, by which the realm was to be governed, the eighth and ninth being about the payment of tithes, they are there enjoined to be paid, not only of the product of the ground, and of animals, but alſo † *De negotiationibus, & omnibus rebus, quas Deus dederit, i. e.* of trade, and of all things elſe which God ſhall give.

And among the Provincial Conſtitutions, collected by *Lyndwood*, which are the known and allowed laws of the land, as to eccleſiaſtical affairs, there are two conſtitutions of *Robert de Winchelſey*, Archbiſhop of *Canterbury*, enjoining the payment of perſonal tithes. The firſt of them doth decree, ‡ That perſonal tithes be paid by all artificers and merchants, that is, of the gain of their trades; and that in like manner they be paid by carpenters, ſmiths, maſons, weavers, ale-wives, and all other labourers. And § the other reckoning up the particulars, out of which tithes are to be paid, doth among them inſert fawkning, hunting, handycraft, and merchandize, and doth as ſtrictly enjoin the payment

not all

* H. de Knighton de eventibus Angliæ *lib.* 2. *c.* 4. Roger Hoveden in annalium parte poſteriore ſub fine vitæ Henrici Secundi.

† Spelmanni Concil. Anglic. *tom.* 1. *p.* 621. Roger Hoveden, *ibidem.* H. Knighton de Eventibus Angliæ, *lib.* 2. *c.* 4.

‡ Statuimus etiam, quod decimæ perſonales ſolvantur de artificibus & mercatoribus, ſcilicet de lucro negotiationis, ſimiliter de carpentariis, fabris, cæmentariis, textoribus, pandoxatricibus, & omnibus aliis operariis. *Lyndwood de decimis, C. Quoniam propter. Spelmanni Concil. Anglic. tom.* 2. *p.* 432.

§ Parochiani omnes & ſinguli integre & ſine diminutione decimas inferius annotatas eccleſiis ſuis perſolvant, ſcil. decimas lactis, &c. Aucupitii,——Molendinorum, venationum, & negotiationum nullis expenſis ratione præſtationis decimarum deductis, ſeu retentis, niſi tantum de præſtatione decimarum artificorum, & negotiationum. *Lyndwood de decimis, C. Sancta Eccleſia.*

payment of tithes out of these, as out of corn, hay, or any other product of the ground, only with this difference, that, whereas all other tithes are to be paid without allowing for the charges, in these personal tithes the charges are first to be deducted, and then the tithes to he paid out of the clear gains.

And in the decretals there is a decree made by Pope *Celestine* the Third, *Anno. Dom.* 1195, which enjoins, * That according to the writings of the antient Fathers, tithes be paid, as of other things, so also of trade, and even of warfare, and hunting, and all other goods. And in another decretal of the same *Celestine*, directed to the Bishop of *Ely*, in *England*, *Anno. Dom.* 1210, it is ordained, † That of all things gained by traffic, or made by handycraft trades, tithes shall be paid, first deducting the expences.

And here you are to take notice, That the decretals of Popes, as far as received, and the provincial constitutions of Archbishops agreed in convocation, made up the ecclesiastical laws of this realm, by which all matters of ecclesiastical cognizance were to be determined, and therefore as to these matters, they ever were, and still are, of as much force as any other laws of the realm, and consequently tithes being of ecclesiastical cognizance, and by these laws personal tithes being enjoined to be paid as well as predial, they are altogether as much due by the law of the land, there being the same laws for the one as for the other.

And further it is to be observed, that these ecclesiastical

* Revera sicut sancti patres in suis tradiderunt scripturis de vino, grano, fructibus arborum, pecoribus, hortis, negotiatione, de ipsa, etiam militia, de venatione, & omnibus bonis decimæ sunt ministris ecclesiæ tribuendæ, ita ut, qui de his solvere neglexerit, ecclesiastica districtione debet percelli. *Extra de decimis, C. non est.*

† Circa res acquisitas vel factas de pecunia decimata, cum ipsæ vendentur, credimus deducendas expensas, & de residuo, quasi de lucro, decimas persolvendas. *Extra de decimis. C. non est.*

cleſiaſtical laws, as far as they relate to tithes, are particularly confirmed by two acts of Parliament in the reign of King *Henry* the Eighth; the firſt *Anno Regni* 27. *c.* 20. the other *Anno* 32. *c.* 7. The firſt of which ſetting forth in the preamble, *That divers numbers of evil diſpoſed perſons having againſt right and a good conſcience attempted to ſubſtract and with-hold their tithes and oblations, as well perſonal as predial, due to God and his holy church, doth enact for the reformation hereof, That all perſons do pay their tithes, (i. e.* † all thoſe mentioned in the preamble, perſonal as well as predial) *according to the eccleſiaſtical laws and ordinances of this church of* England. *And that if any ſhall refuſe to pay the ſaid tithes, they ſhall be compelled thereto by due proceſs of the eccleſiaſtical ſaid laws.* Which eccleſiaſtical laws, as to tithes, the ſaid act doth provide ſhall be in full force, ‡ till a new body of eccleſiaſtical laws ſhall be publiſhed according to the purport of a former act made by the ſame King, *Anno. Regni* 25. *c.* 19. In the laſt clauſe of which act, § the ſame proviſion is made for all the eccleſiaſtical laws in general, that as far as they are not contrariant or repugnant to the laws of the land, or the King's prerogative, they ſhall ſtand in full force, and be ſtill uſed and executed as they were before, till the ſaid new body of eccleſiaſtical laws ſhall be made and publiſhed. By vertue whereof all the ſaid laws are ſtill in force, becauſe as yet there hath not been any ſuch body of laws publiſhed, as is by the authority of the ſaid act provided. And the other act of the 32d of the ſame King, ſetting forth the like abuſe, * doth alſo enact reformation thereof to be had by the eccleſiaſtical laws of this realm, and conſequently both of them do affirm

† The act for the payment of tithes, *Anno* 2do, *&* 3tio *Edwardi ſexti. c.* 13. ſaith in the preamble, that the act of the 27th of King *Henry* the 8th was for the payment of tithes predial and perſonal.

‡ 27 *H.* 8. *c.* 20. ſec. 4

§ 25 *H.* 8. *c.* 19. ſect. 7.

* 32 *H.* 8. *c.* 7.

affirm all thoſe tithes to be good and juſtly due, which are by the ſaid eccleſiaſtical laws ordained to be paid. And that theſe laws do ordain perſonal tithes to be paid as well as predial, I have above fully ſhewn.

The manner whereby theſe tithes were paid was moſt uſually by compoſition between the miniſter and the party owing them. But if they could not agree, then the party was called before the Ordinary, and examined upon oath, and of that which did appear upon that examination to be the clear gain above all expences, the tenth part was paid for his perſonal tithes. And ſo it continued, till an act of Parliament was made in the ſecond and third year of King *Edward* the ſixth, *c.* 13. which took away the ſaid oath. For it being obſerved, that many to ſave their perſonal tithes, or to deduct from the full payment of them, made no conſcience of being forſworn; to prevent the vaſt number of perjuries, which on this occaſion men became guilty of, the ſaid oath was taken away, and thereby in effect all perſonal tithes were taken away alſo. For although the ſaid act doth affirm the right of perſonal tithes, as fully as poſſible, and enjoins the payment of them ſtill to continue, and by vertue thereof they are at this day as lawfully and rightfully due in all towns and cities, as tithe-corn and tithe-herbage are in the country; yet ſince there is no other way to diſcover them, but by the oath of the party who is to pay them, the taking away of that, is the taking away of all proof whereby to recover them. And ſince for want hereof, they cannot be recovered, no one hath had the conſcience ever ſince to pay them. And this is the only reaſon that perſonal tithes have now ceaſed in this land, and the church hath loſt that part of its revenue, whereby Miniſters were to be maintained in towns and cities, where there is the moſt need of them. The words of the act are as followeth:

And

† *And be it also further enacted by the authority aforesaid, That every person exercising merchandizes, bargaining, and selling, cloathing, handycraft, or other art or faculty, being such kind of persons, and in such places, as heretofore within these forty years have accustomably used to pay such personal tithes, or of right ought to pay, (other than such as be common day-labourers) shall yearly at or before the feast of* Easter *pay for his personal tithes the tenth part of his clear gains, his charges and expences according to his estate, condition, or degree, to be therein abated, allowed, and deducted. Provided always, and be it enacted, That in all such places, where handycrafts men have used to pay their tithes within these forty years, the same custom of payment of tithes is to be observed, and to continue, any thing in this act to the contrary notwithstanding. And be it also enacted by the authority aforesaid, That if any person refuse to pay his personal tithes in form aforesaid, that then it shall be lawful to the Ordinary of the same diocese, where the party that ought to pay the said tithes is dwelling, to call the same party before him, and by his discretion to examine him by all lawful and reasonable means, other than by the party's own corporal oath, concerning the true payment of the said personal tithes.*

Here you see the right of personal tithes is as fully and thoroughly asserted as possible. But without the oath of the party, there can be no discovery made whereby to recover them. For the tradesmens books not lying open to every man's view, as do the fields of the husbandman, the gain of trade, out of which personal tithes are to be paid, lieth so hid and concealed, that no evidence can be had thereof, but from the person himself; from which he being by this act discharged, all have taken the advantage hereof to discharge themselves from these tithes also, and they have never since been paid. For where there can be no evidence for the thing claim-

† 2do & 3do Edwardi Sexti, c. 13. sect. 7, 8, 9.

ed, there can be no ſentence of law for the recovery of it, how juſtly ſoever it be due; or any other coercion but that of the conſcience, to oblige men to pay it. But this being too weak to bind men of trade, where their gain is concerned, the general practice hath been ever ſince this ſtatute no more to pay thoſe tithes. And ſo that perjury in ſome, which this law was made to prevent, is hereby turned into an univerſal ſacrilege in all, which is much the worſe of the two.

But however, though this act hath taken away the means of diſcovering theſe tithes, yet the right to them is not extinguiſh'd hereby. The legal remedy indeed hath ever ſince failed, but not the legal obligation to pay them; for all the old laws for their payment ſtill remain in their full force, and this new law of King *Edward* the ſixth gives affirmance to them in as full and clear a ratification as can be deſired. And although that evidence cannot be had, which the ſtatute doth now require for the proof of them, yet every tradeſman that knows at the year's end what gain he hath made by his trade for that year, hath evidence enough in his conſcience what is the portion which he ought to pay, and he robs God and his church whenever he detains it. When a juſt debt, is due, tho' the credior hath loſt his bond, or other evidence whereby it may be legally proved, yet every honeſt man will think himſelf obliged faithfully to pay what he juſtly owes. And therefore ſince it fully appears by what I have above-ſaid, that perſonal tithes are ſtill juſtly and legally owing, tho' the Miniſter hath loſt the means of proving them, the tradeſman, who is to pay them, hath not; he knows his gains, and conſequently he knows what is due for the tithe of them. And can he then be a good and juſt man, if he doth not faithfully pay them? though he be clear of all coercion of law in this caſe, he cannot be clear of the obligation of his conſcience, but as long as he knows the due, he is bound to pay it,

it, whether the law can force him to it or no. Whosoever acts contrary hereto in any case whatsoever, offends against justice: but to do otherwise in the case now before us, is to sin against religion also, it being no less than the horrid crime of sacrilege, for any man to detain from God and his church for the maintenance of his Ministers, what he knows to be duly consecrated thereto.

But it may be here objected, that personal tithes are not due, because they were never commanded by the *Mosaical* law. For they that claim tithes as due of divine right, claim them by that law, and therefore those tithes which are not due by that law cannot be claimed. And this was the objection of *William Russel*, a begging friar, in the reign of King *Henry* the sixth. For the friars from the beginning of the 13th century having long carried on a design for the robbing of the parish priests of their rights, in order thereto they advanced a doctrine, (which was afterwards licked up from them by *Wickliff*) that tithes were not due by any law of God to the parish priests, but were meer alms, and might be given by the owners to whom they pleased, hoping that if they could get this doctrine to obtain, they might thereby draw all tithes to themselves by way of alms. And in this the begging friars, who lived of alms, being chiefly engaged, as having the greatest prospect of advantage from it, although the point was then determined to be against them upon the prescript of God's law, and their doctrine was thereon condemn'd as heretical, yet they would not wholly give over the plot, but still carried it on in part, after they had failed in the whole, alledging, that there being in no part of God's law any mention of personal tithes, whatsoever there might be of predial or mix'd, they at least must be only alms, and in the power of the owners to give them to whom they pleased. And accordingly they did put the said *Russel* to preach up this doctrine, for which he * was condemn'd as an here-

* Arthurus Duck in vita Henrici Chichley Archiepiscopi Cant. Selden *of Tithes*, *c.* 7. *sect.* 5. *p.* 170.

heretick by the Univerſity of *Oxford*, and alſo by the convocation of the province of *Canterbury*, in the fifth year of King *Henry* the ſixth, and made undergo very ſevere penance for it. But notwithſtanding this condemnation, in anſwer to the abovementioned objection I muſt acknowledge, that whatſoever the canoniſts and divines ſay of predial and mix'd tithes, they generally give up the cauſe as to perſonal tithes, and allow no other right for them, but from human inſtitution.

But without entring into any diſpute about this matter, I am ſure a maintenance for the ſupport of God's worſhip, and thoſe that miniſter in it, is due by the ſame law, which commands that worſhip (the means being always neceſſarily included in the law that enjoins the end) and there are none that treat of this argument, that have ever denied a divine right as to this, but all have allowed that a ſufficient maintenance for the ſupport of the worſhip of God, and his Miniſters, is due by the law of God and nature, and that he ſins againſt both, whoever withholds it. And therefore ſhould we allow only this maintenance in general, to be due by divine right, and that it is left to the civil government of every country to determine the *quota pars*, yet even upon this *hypotheſis*, when the government hath determined the *quota pars*, it muſt be as much due, as if God had commanded it himſelf, becauſe when they have determined it, to whom God hath left it to be determined, whenſoever it is thus determined it is done by his authority, and therefore altogether as valid, as if he had done it himſelf. In the eighth commandment, which forbids the taking away of another man's right, it is left to the laws of every country to determine, what that right is, and yet notwithſtanding, when any man's right is thus determined, it is as much a breach of this commandment of God to take it away, as if God had determined it himſelf. And ſo in the law which forbids the withholding a ſufficient maintenance for the ſupport of God's

God's worſhip and miniſters (which all own to be of divine inſtitution) although it be left to the civil government of every country to determine the part which all are to pay, yet after the government hath determined this part, it is as much a breach of God's law to detain it, as if God had determined it himſelf. God did indeed in the *Jewiſh* ſtate (wherein he acted as national governor of that people) determine himſelf the particular portion, which was to be ſet apart for the ſupport of his worſhip and miniſters, and ſo did he alſo therein, what every man's particular property and right ſhould be. For he diſtributed it by lot in the firſt diviſion of the land, and made all the laws, by which it was afterwards to be governed and determined, and yet this doth not hinder, but that ſtill the eighth commandment is in its full force as much now, as in the *Jewiſh* ſtate. And though now not God's laws, but man's laws do determine in every ſtate, what every man's property is, yet it is as much theft now to take it away as ever. Neither can it hinder, but ſtill the law for the ſupport of God's worſhip and miniſters is in the ſame force as ever; and tho' it ſhould be granted, that now not God's laws but man's laws do determine it to a tenth part of our yearly increaſe, yet ſtill it would be as much ſacrilege now to detain that tenth part, as ever it was when God commanded it himſelf. So that whether it be God or man that appointeth the *quota pars*, it comes all to the ſame paſs, as long as it be allowed (which all agree in) that the law of God doth in every place require a ſufficient maintenance to be ſet apart for the ſupport of his divine worſhip, and thoſe that miniſter in it. For if God's law commands a maintenance in general, and leaves it to every ſtate to determine the particular portion, when the ſtate hath determined this portion, it is as much due by that law, as if God had determined it himſelf; in the ſame manner, as when an act of parliament is made for the raiſing of a tax, and it be left to commiſſioners to aſſeſs every man's particular

ticular *quota*, that which the commiſſioners do by vertue of that act aſſeſs upon every man, is as much due by that act, as if it had been particularly ſpecified, and in expreſs terms ſet down therein, and it will be interpreted altogether as great a breach thereof to detain it. For in the ſame manner in this caſe the governors of every ſtate are as God's commiſſioners, to aſſeſs and determine the *quota pars*; and therefore, when they have determined it, the part ſo determined and appointed by them, becomes the portion, which is due by the law of God, in as full and valid a manner, as if He the ſupreme law-giver had in the ſaid law ſtated and determined it himſelf. For, what any one doth by his delegates, fully authorized for that purpoſe, is, in all conſtruction of law and reaſon, of the ſame force and validity, as if he had done it himſelf. And therefore even according to this hypotheſis (which no one will hold out againſt) that only a ſufficient maintenance in general is commanded by God's law, and that it is left to the governors of every ſtate to appoint the particular portion, it will follow, that when they have determined this portion, they have done it by God's authority; and therefore that part, which they appoint, muſt be as much due by that law of God, as if God had therein determined and appointed it himſelf; and conſequently, in every place, it muſt be as much a breach of that law to detain it, and every man will load his ſoul with altogether as great a ſacrilege, that is guilty herein.

And therefore, to come home to the caſe in hand, although perſonal tithes be no where commanded in God's word, yet a ſufficient maintenance is. This the law provided for; this the goſpel * commands, and reaſon itſelf makes it juſt, that in every place, where there are labourers in God's harveſt, they ſhould have their hire. And none that have owned the name of *Chriſtians* (excepting only the wild ſect of the *Quakers*,) have ever denied it. And in truth, none deſerve that name,

* 1 Cor. ix. 13, 14. Gal. vi. 6. 1 Tim. v. 17, 18.

name, that do not comply herewith, becauſe whoever is for the chriſtian worſhip, muſt be alſo for the means and maintenance, whereby it is to be ſupported. But in towns and cities there can be no predial or mix'd tithes, becauſe in them there are none of thoſe products, out of which they do ariſe. But there are other products of gain of much greater value, and much eaſier acquiſition, which are the fruits of God's bleſſing as well as the other, that is, the gain of trade and merchandize; and out of theſe to provide for the ſupport of God's worſhip in thoſe places, where other tithes ſufficient for this end are not to be had, perſonal tithes have been appointed. And ſuppoſing, that only a maintenance in general is commanded by God's law, and that it is left to the civil government of every country to appoint the particular part, (lower than which no chriſtians do hold, except the wild ſect above mentioned, who deny all) yet now the civil government of this land hath by law eſtabliſh'd perſonal tithes, and that law is ſtill in force, the law of God for a maintenance in general is now in thoſe places, where perſonal tithes ariſe, determined to that particular, and thoſe, that do not pay them, break God's law as well as man's law, and become guilty thereby of ſinning againſt both. For if the law of God, which commands the maintenance in general, leaves it to the civil government to appoint the particular part, it certainly commands that particular part to be paid, which the civil government doth appoint. And therefore the civil government of this land having appointed perſonal tithes, that is, the tenth part of the clear gain of merchandiſe and trade, to be paid in all towns and cities, where they ariſe, they are certainly in theſe places due by God's law, as well as man's law, and they are guilty of the breach of both, who fail in the payment of them.

But to this it will be objected, that the ſtatute of King *Edward* the ſixth enjoins perſonal tithes to be paid only in thoſe places, where they have been accuſtomed

cuſtomed to be paid within 40 years before the date of that ſtatute, and that therefore it lies upon us firſt to prove, that perſonal tithes were accuſtomed to be paid in the city of *Norwich*, within the ſpace of forty years before the ſecond and third of King *Edward* the ſixth, before we can claim them as here due by vertue of the ſaid ſtatute.

In anſwer to this, we muſt acknowledge, that now after 157 * years are elapſed to demand a legal proof is to put us upon an hard taſk, but however there are evidences enough to make out the thing. For,

1ſt, Of the thirty four pariſhes now remaining in the city of *Norwich*, (for formerly there were many more) twenty were appropriated to religious houſes. But religious houſes never taking any ſuch appropriations, but where there were valuable and certain profits, this muſt prove, that there were ſome certain valuable profits belonging to thoſe pariſhes, which were worth their having, and if ſo, they muſt neceſſarily have been by perſonal tithes: for beſides theſe there was no other way whereby they could ariſe.

2dly, From the time of the enacting of the ſaid ſtatute of King *Edward* the ſixth, although the legal remedy, whereby to recover perſonal tithes, were taken away with the oath of the party, yet compoſitions were all along paid in this city, in lieu of them, down to the time when this award was made, which were uſually taxed by the church-wardens and collected by them, and there are ſtill remaining in the regiſtry of the *Conſiſtorial-Court* of the biſhop of *Norwich*, the regiſtration of ſeveral proceedings in law, whereby thoſe who refuſed to pay the ſaid compoſitions were ſued and proſecuted for them, and by legal ſentences forced to pay them, which could not have been done, were they not in lieu of ſome legal due, and there could be no other ſuch due but perſonal tithes only. But at length theſe compoſitions falling

* For the 3d of King *Edward* the 6th being Anno Domini 1549, ſince that 157 years are now elapſed.

falling ſhort of a competency, and there being no certain viſible rule, whereby to tax them, this award was made to ſettle and fix this matter, and hereby the old way of taxing by compoſitions being ſuperſeded, and immediately after that this new way of the award being damned and ſuppreſſed by the long parliament, there hath nothing elſe ever ſince ſucceeded in their place for the ſupport of God's worſhip and the preaching of his word in this large and opulent city, but the arbitrary contributions of the inhabitants, which fall ſo very much ſhort of a ſufficient competency, that thoſe who attend upon them in their greateſt concern, the cure of their ſouls, have ſcarce ſo much given them, as will make up the common wages of coblers, and tinkers, and other mechanicks, who ſerve in the meaneſt and vileſt employments.

Thus far therefore having proved perſonal tithes to be ſtill due by the law of the land in thoſe towns and cities, where they ariſe, I am next to juſtify this award for the payment of them in the city of *Norwich*, by ſhewing, 1ſt, That the parties hereto had full power to make ſuch an agreement concerning them, as would hold good in law: and 2dly, That the agreement of this award was ſo made, and therefore it is ſtill in force.

And 1ſt, The parties in this award between whom the agreement was made, were the common-council of *Norwich* of the one part, and the biſhop and miniſters of the ſame city of the other part. And in all corporations the common council do act for the whole community, and have full authority ſo to do. For they are choſen by them for this purpoſe, and they repreſent every member of the corporation, ſo that whatſoever is done by them, is in the ſame manner valid, as if conſented to by every individual perſon therein. And therefore they have authority to apply the common ſeal to any inſtrument they ſhall think fit, which always ſpeaks from the whole community, wherever it appears, and conſequently every agreement they make muſt bind them, and the whole

body which they repreſent. And as the common-council can thus agree on the one hand, ſo alſo can the clergy, with the concurrence of their biſhop on the other, and whatſoever they agree to, eſpecially when ratified by the king, the ſupreme patron of all the churches in his realms, muſt bind them and all that ſucceed. It ever did ſo in former times, and from this all compoſitions and *modi decimandi* have had, or are preſumed to have had, their original, and it muſt be ſo ſtill in all particulars, where there is no law ſince made to the contrary And therefore if the ſaid common-council can thus conſent and make an agreement for themſelves, and the whole body, which they repreſent, on the one hand, and the miniſters with their biſhop can do the ſame for them and their ſucceſſors on the other, then certainly every agreement, which both parties do thus conſent to, muſt be good and valid in law to bind them, and all that ſucceed them, to the obſervance of it.

The great objection againſt all this is, that ſince the diſabling ſtatutes of the firſt and thirteenth of Queen *Elizabeth*, no compoſitions for tithes can be made to bind ſucceſſion, becauſe in all ſuch compoſitions there muſt be an alienation of the tithes for that which is to be paid in lieu of them, but ſince theſe ſtatutes no ſuch alienation can be now made. And if otherwiſe, yet ſtill this compoſition cannot be good, becauſe to make ſuch compoſitions binding in law, the concurrence of the patron was always held as neceſſary as that of the miniſter, biſhop, and party from whom the tithes were due, but there is no ſuch concurrence or conſent of the patrons to this award. To which I anſwer,

1. Here is no alienation made, as in real compoſitions, where the tithes are granted away in lieu of ſomething elſe to be paid inſtead of them. For here is no change of the thing to be paid, but only an agreement as to a rule how it ſhall be paid. For perſonal tithes are to be paid in money, that is, the tenth penny of every man's clear gain by his trade, and

and what is decreed by this award is to be paid in money; so here is no change of the species, no alteration of any thing, but as personal tithes are due in money, so they are still by this award to be paid in money. But since the oath is taken away, how to recover the exact tenth penny is the difficulty. For what clear gain any man makes by his trade, doth not lie open to public view, as all other titheable things do, but is locked up and concealed within the books and breasts of the tradesmen, and therefore when controversies arise about it, there is no discovery to be made, but by the confession of the party. And if the inhabitants of any city or town shall by their just representatives, the common-council of their corporation, be content to confess every man as much clear gain annually made of their trades, as the rent of the house, which they dwell in, shall amount unto, and to pay the personal tithes thereof, and the ministers are content to accept of it, because they cannot prove any more, and hereon an agreement be made by the corporation, under their common seal, on the one hand, and by all the ministers of the place then being, with the concurrence of their bishop, on the other, what is there to hinder, but that this agreement must be legal and good, as well as any other agreement, in which all parties concerned do fully concur? If it be said, that it chargeth men, that are not of the corporation, because many of the houses are owned by foreigners. I answer, personal tithes are not a real, but a personal charge, and therefore are not charged on the houses by this composition, but only on the persons inhabiting in them, in the same manner as the parish rates for church and poor. If it be said, that in such an agreement a part is only settled instead of the whole, because personal tithes, if duly paid, would amount to more than is decreed by this award, and that therefore it is an alienation of all that is over, and consequently a composition within the prohibition of the statutes: I answer, That this is

more than any one can diſcover; poſſibly ſometimes it may be more than the whole that ſhall be this way paid. But however, though it be ſo as here objected, yet when the full is taken of all that can be diſcovered, all is taken that the law will give. For the law will give no more, than can by legal proof be made out and diſcovered; and if it be impoſſible to make proof of any more perſonal tithes due from the gain of trade than ſhall be by ſuch a compoſition acknowledged and conſented to by the tradeſman himſelf, then that which is paid by ſuch a compoſition is all, that in the eye of the law can be judged due, and therefore the law can never ſee an alienation of any thing in this matter.

2dly, The diſabling ſtatutes being made only for the preventing of ſuch grants and compoſitions as would be to the damage of the church, they cannot be urged againſt thoſe which are made for the benefit of it, as manifeſtly this agreement is. For ſince the oath for the diſcovery of perſonal tithes is taken away, and it is now through want hereof in the power of every man to conceal the whole of them, all is to the advantage of the church, whatſoever they ſhall agree to pay for them. Beſides thoſe ſtatutes being made only to ſecure the rights of the church, they cannot be pleaded but on the part of the church; and therefore as long as the church doth not on her part object any thing againſt this agreement, it muſt certainly hold good on the other.

3dly, As to what is objected againſt the validity of compoſitions where the concurrence of the patron is wanting, it doth not take place in this matter. The law is, that all rectors and vicars of pariſhes could make real compoſitions for their tithes and glebes without any limitation before the diſabling ſtatutes, and ſince theſe ſtatutes they can make leaſes of their ſaid tithes and glebes for one and twenty years or three lives, and to all theſe compoſitions and grants, the concurrence of the patron and the ordinary was ever held neceſſary to make them bind

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ſucceſſion, otherwiſe they hold good only during the life of him that grants them. But the agreement ſettled in this award, is neither a leaſe nor a real compoſition. A leaſe no one can call it, neither can it be ſaid to be a real compoſition. For in all real compoſitions, there is an alienation of the tithes for ſomething elſe, that is to be paid in lieu of them; but that there is no ſuch alienation in this matter, I have already ſhown. And real compoſitions leave real charges upon the land, out of which the tithes ariſe, and therefore can take place only in predial or mixed tithes, but never in perſonal tithes, becauſe they ariſing out of the gains of perſonal labour, are paid only in reſpect of the perſons, and cannot be charged otherwiſe, but upon the perſons. And altho' in this award, the perſonal tithes are ſettled according to the rents of houſes, as being the beſt ſtanding meaſure whereby this matter is capable of being adjuſted, yet the charge is not upon the houſes, but only upon the inhabitants dwelling in them, as I have already ſaid.

And thus far having ſhewn that the people and miniſters of any town or city can make ſuch an agreement for their perſonal tithes, as ſhall hold good in law; it remains that I ſhew, that the agreement ſettled in this award was ſo made. For if they can themſelves make an agreement about this matter, moſt certainly they can alſo by joint conſent refer it to another by way of arbitration to make it for them. And ſo it was that the agreement was made in this preſent award. For it was not the effect of the exorbitant power of the privy council, (as the complaint in thoſe days was) or a meer act of the King's paramount authority and good pleaſure, but that which he was fully authoriſed to by the conſent and compromiſe of both parties concerned, who did by their petition to his majeſty voluntarily and freely ſubmit it to his arbitration, and humbly prayed him to determine the matter between them, as appears by the ſubmiſſions of both of the ſaid parties inſert-

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ed in the patent of award, and upon this conſent and compromiſe is the determination founded that is made therein. And therefore nothing is done hereby, but what had been good and valid, had they choſen any other perſon for their arbitrator; and how much more then muſt it be ſo, when it hath the King's majeſty, the ſupreme head of the church, as well as the ſupreme lord of the land, who hath the higheſt care and the higheſt power in ſuch matters) by his royal determination to give authority thereto?

But if after all this it be ſaid, That it is above the power of arbitration to ſettle ſuch a matter, be who will the arbitrator: I anſwer, that this very thing hath ſeveral times been ſettled by arbitration and award in the city of *London*, and why may it not then be done ſo by the ſame means in *Norwich?* What hath been done and ſubmitted to as valid and lawful by that famous metropolis of the Britannick empire, the greateſt and the richeſt city in the world, may certainly paſs for ſuch in any other town or city in the kingdom, and become a rule and a precedent for them alſo to follow after in the like caſe. For about the year * 1230, there being a controverſy between the citizens of *London* and their parochial clergy about the payment of their perſonal tithes, they referred the matter to the determination of *Roger Niger*, then newly made biſhop of *London:* And he having ordered, that for thoſe tithes every houſholder ſhould on every Sunday and feſtival, and on all ſaints days, whoſe eves were faſted, offer a farthing of every ten ſhillings of the annual rent of the houſes in which they dwelt; this was ſubmitted to, and exactly obſerved without any contradiction, or further controverſy about it, for near 170 years, that is, 'till the year 1397. And when about that time (the rents of houſes then beginning to increaſe, on

* Book of the Common Cuſtoms of *London*, fol. 18. Abſtract of a Treatiſe concerning the Payment of Tithes and Oblations in *London*, p. 2.

on the change that was then made in the value of money) a new diſpute aroſe on the citizens refuſing to pay for what exceeded forty ſhillings per annum in the rent of the houſes, on pretence that it was not intended by *Roger Niger*'s conſtitution, that any thing ſhould be paid for what exceeded that ſum in the ſaid rents. This matter was determined by * *Thomas Arundel*, Archbiſhop of *Canterbury*, and it became ſettled by his determination, that they ſhould pay the ſaid offerings out of every ten ſhillings of their rent, to what ſum ſoever the ſaid rent ſhould amount. It ſeems 'till then forty ſhillings per ann. was the higheſt that any houſe in *London* was rented at, which was by reaſon of the greater value that was then upon money, a ſhilling in thoſe times being worth more than a guinea is now.) And when the change that happened in this value, altered the rents of houſes, becauſe it had ſeldom been known, that any had paid for above forty ſhillings annual rent before (ſcarce any rent before exceeding that ſum) they laid hold on this for a pretence, that no offerings were to be made for any ſum beyond it in the ſaid rents. For the ſaid decree of *Roger Niger* having expreſſed in particular, that on all thoſe Sundays and holy-days, a farthing ſhould be paid of every ten ſhillings rent, an halfpenny of every twenty ſhillings rent, three farthings of every thirty ſhillings rent, and a penny of every forty ſhillings rent, and there ſtopping the mention of particulars, did after that ſubjoin only in general, *Et ſic aſcenſive pro rata penſionis ultra dictam ſummam quadriginta ſolidorum ad quantamcunq; ſummam penſio hujuſmodi annua ſe extendat, offerre teneantur, prout hactenus longis retroactis temporibus, & tempore præſcriptibili per parochianos eccleſiarum civitatis prædictæ offerre extitit conſuetum.* The ſaid citizens would from hence infer, that nothing was to be paid for what was above

* In Regiſtro *Arundel*, fol. 1. Book of Common Cuſtoms. Abſtract ibidem. Antiquitates Eccleſiæ *Britannicæ*, p. 271. Editionis *Hannoverenſis*.

above the rent of forty ſhillings, but according to cuſtom, and pleaded that there was no cuſtom to pay any thing for what the rent exceeded that ſum. But the Archbiſhop having ſettled the matter as above-mentioned, they acquieſced in his determination, and according thereto theſe offerings were conſtantly paid, without any contradiction, till the year 1453, when the citizens thinking that the clergy impoſed on them in the great number of holy-days, on which, beſides Sundays, they required the ſaid offerings†, a new diſpute aroſe about this, and after a long conteſt in the eccleſiaſtical courts, and appeals made to *Rome* about it, at length it was ſubmitted to eight arbitrators to decide the matter; who by their ‡ award, bearing date *December* the ſeventeenth, *anno Dom.* 1457, fixed thoſe offerings at 52 Sundays, and 22 holy-days, which amounted to three ſhillings and a penny of the pound. And this award was agreed to, ratified and confirmed by the common council of the city. But within a few months afterwards, how it came to paſs I know not, they § were made to receive the bull of Pope *Nicolas* the fifth, dated about four years before, which did ſet the rate at five-pence in the pound higher, that is, it appointed ſo many holy-days for theſe offerings beſides Sundays, as made them amount to 3s. 6d. of the pound. And the city did, by act of common council, bind themſelves to obey this bull, and according hereto theſe offerings were paid at the rate of 3s. and 6d. of the pound, without any oppoſition till the 25th year of King *Henry* VIII. i. e. *anno Dom.* 1533. But then the Pope's power being abrogated in *England*, ‖ ſome citizens pretending, that they ſhould incur a præmunire in obeying the Pope's bull, refuſed any longer to pay theſe offerings, and when proſecuted in

† See the Bull of Pope *Nicolas*, in the book of the Common Cuſtoms of *London*, fol. 19, &c.

‡ Book of the Common Cuſtoms of *London*. Abſtract, p. 3.

§ Book of the Common Cuſtoms of *London*, and the Abſtract, ibidem. —— ‖ Abſtract, p. 5.

in the eccleſiaſtical courts for this refuſal, they preferred a bill in the ſtar chamber, againſt their clergy, that ſued for them, and therein ſetting forth that other pariſhes without the liberties of *London* paid only two ſhillings of the pound, they prayed, that they might not be obliged to pay any more, in which ſuit after publication of evidences both parties ſubmitted the cauſe to the arbitration of *Thomas Cranmer*, Lord Archbiſhop of *Canterbury*, *Thomas* Lord *Audley*, Lord Chancellor of *England*, *Stephen Gardiner*, Biſhop of *Winchester*, *Thomas Cromwell*, Eſq; Maſter of the King's Jewels, Sir *Thomas Fitz-James*, Chief Juſtice of the *King's Bench*, and Sir *Robert Norwich*, Chief Juſtice of the *Common-pleas*, who finding that the parochial clergy demanded three ſhillings and ſix-pence of the pound, as had been formerly paid by the bull of Pope *Nicolas* the Fifth, for fourſcore years paſt, and that the citizens contended, that they might pay no more than two ſhillings of the pound, as other pariſhes without the liberties of *London* did, they did ſplit the matter between them, and ſettled the rate at two ſhillings and nine-pence of the pound, which award the King ratified and commanded it to be obſerved by his * letters patent bearing date *April* the 2d, *Anno Regni* 25, i. e. *Anno Domini* 1534, and two years after it was confirmed by act of parliament, which is not printed in the ſtatute books, but it may be ſeen on the parliament rolls, *Anno* 27 *Henrici Octavi*. But notwithſtanding the citizens being ſtill diſſatisfied, they did in the 35th year of King *Henry* the VIIIth, *i. e. Anno Domini* 1543, raiſe new difficulties about new foundations, brewhouſes, dye-houſes, cranes, and other particulars, demanding deductions in reſpect of theſe, which would have much diminiſhed the revenue of the clergy of *London*, as ſettled by the laſt Award. And to obtain their purpoſe they put up a bill in paliament, which paſſed the Commons, but

* See the letters patents at large in the abſtract, page 33, wherein the Award is recited and confirmed.

was caſt out by the Lords. But the conteſt ſtill continuing, for the full ending of it, at length an act paſſed *Anno* 37 *Henrici Octavi*, i. e. *Anno Domini* 1545, whereby the Lord Archbiſhop of *Canterbury*, with ſeveral other referees therein named, were authorized by their award to determine and finally ſettle all particulars then in controverſy between the ſaid citizens and clergy concerning this matter. And accordingly on the 24th of *February* in the ſame year they made their ‖ award, which is printed in the ſtatute-books with that act, whereby they confirm the rate of 2s. and 9d. of the pound of all rents in *London* to be paid to the parochial clergy for their tithes. And according to the determination of this award the matter hath ever ſince ſtood, excepting only as to thoſe pariſhes that were burnt by the dreadful fire of *London An. Dom.* 1666, concerning which, another order hath been made by act of parliament, as may be ſeen in the ſtatutes of the 22d and 23d of King *Charles* the IId, chap. 15.

And in the city of *Canterbury* at firſt the ſame rule was obſerved, as formerly in *London*, * and the like offerings of a farthing for every ten ſhillings of their rents on all ſundays and holydays were there alſo made for their tithes, even as far down † as to the year 1457, but afterwards it came to the payment of ten pence of every *Noble*, that is two ſhillings and ſix pence of the pound. And according to this rule do they pay their tithes to their miniſter even to this day in all the pariſhes of that city, excepting only ‡ in the pariſh of St. *Andrew's*, where they pay ſomewhat more, that is, ſaith *Somners*, ten pence half-penny for every *Noble*, which comes to two ſhillings ſeven pence half-penny of the pound. But at the time of the making of this award for *Norwich*, two ſhillings and nine pence was there paid, as it is aver-

‖ See the act anno 37. *H.* 8. c. 12.
* *Somner's* Antiquities of *Canterbury*, 4to. p. 348.
† *Somner's* in Appendice Scriptura 30. p. 470.
‡ *Somner's*, p. 348.

averred therein, and this hath no act of parliament to warrant it but owes its original and eſtabliſhment only to the determinations and decrees made by the archbiſhops of that ſee, and yet notwithſtanding it ſtands good in law, and no body diſputes its validity on that account, but all there either pay their tithes according to this rule, or elſe are compelled by law, when they detain them.

And if the determinations of *Roger Niger*, biſhop of *London*, and of *Thomas Arundell*, archbiſhop of *Canterbury*, and of the eight arbitrators *Anno Domini* 1457, could ſettle this matter in *London*, and the determinations of the archbiſhops of *Canterbury* could do the ſame in the city of *Canterbury*, why may not the determination and award of King *Charles* the firſt, that bleſſed martyr for our church, do the ſame in *Norwich?* eſpecially ſince the matter was in ſo full a manner in all the legal forms ſubmitted to him by all parties concerned. I ſay farther, if Pope *Nicolas* the fifth could ſettle thoſe tithes in *London* at three ſhillings and ſix-pence of the pound, and his decree concerning this matter was for eighty years together admitted, executed and allowed as good in law, till another legal ſettlement of thoſe tithes was made, why might not King *Charles* the firſt by a like decree ſettle two ſhillings of the pound in *Norwich?* for whatſoever power the popes of *Rome* where formerly allowed to exerciſe in this realm hath ever ſince the abolition of their judriſdiction here been by the ſtatutes of the land veſted in the king, and therefore if the pope could do this before that abolition, moſt certainly the king can do it ever ſince.

But againſt all this it will be objected, that the two awards made by King *Henry* the VIIIth concerning this matter, were both thought neceſſary to be confirmed by act of parliament, in manner as is above related. And therefore if thoſe awards could not be good for *London* without ſuch a confirmation, neither can this of King *Charles* the Iſt be good for

Norwich, without being confirmed in the ſame manner.

To this I anſwer, that the caſe, as to theſe two awards of King *Henry* the VIIIth, was quite different from that now before us; there being as to both thoſe awards a reaſon in them for ſuch a confirmation, to make them valid and good in law, which is not in this award of King *Charles* the Iſt for the city of *Norwich*.

For to begin with the firſt of them, that which was awarded in the 25th year of King *Henry* the VIIIth, it was not made originally to ſettle any manner of tithing between the clergy and citizens of *London*, for the payment of their perſonal tithes, which might always have been done, either by the parties themſelves, or the award of arbitrators, to whom it ſhould be ſubmitted (and none of thoſe *modi decimandi*, which are now in being, were ever made otherwiſe) but it was to unſettle and take away what had formerly by good law been fully ſettled. And ſince no legal right can be taken away without a law made of purpoſe for it, for this reaſon was it that the ſaid act was made to confirm that award. In favour of the citizens of *London*, that award had brought down the three ſhillings and ſix-pence of the pound, which had been formerly paid, and legally ſettled, to two ſhillings and nine-pence of the pound, which being of great advantage to the ſaid citizens, to ſecure it to them againſt all future claims and reſumptions of the clergy, they procured this act of parliament for the confirmation of it. In the former award of the eight arbitrators, it had been brought down to three ſhillings and a penny of the pound, but not long after they were forced to receive the bull of Pope *Nicolas* the Vth, and by vertue thereof, to pay as formerly: and therefore, to exclude the clergy from any ſuch future reſumptions of their former right, and pin them down irrevocably to the two ſhillings and nine-pence of the pound (which was all that was allowed them by this award

award of the 25th of King *Henry* the VIIIth), this act of parliament was obtained to confirm it. So the end of it was not to confirm to the clergy any ſettlement of their dues, but to confirm to the citizens of *London* that abatement of them, which was by that award granted unto them. The dues of the clergy of *London* had been before ſufficiently ſecured and eſtabliſhed by many decrees anciently made, and long uſage thereupon had, and therefore they needed no new law for their eſtabliſhment. But theſe dues having been diminiſhed by this award, and nine-pence taken away out of every three and ſix-pence, which was before legally ſettled, this was ſuch an alteration in the former law as could not be valid without a new law to give authority thereto, and therefore, to confirm this alteration, and ſecure to the citizens of *London* the advantage they had gotten by it, an act of parliament was abſolutely neceſſary; and for this reaſon only was it that it was obtained. But our caſe at *Norwich* being quite otherwiſe, the precedent doth not here hold. Had there been in this city any ſuch manner appointed and eſtabliſhed by law, before the award of King *Charles* the Iſt, as there was in *London*, before this award of King *Henry* the VIIIth, for the payment of their perſonal tithes, it muſt be acknowledged ſuch a legal eſtabliſhment could not, without a new law, have been altered, but an act of parliament muſt have been obtained for it, be who will the arbitrator, that had awarded it. But when there is nothing ſettled but the perſonal tithes, which are due in all places of trade, by the general law of the land, and concerning theſe a difficulty and diſpute ariſeth about the manner only how they ſhall be paid, that is, how much the tradeſmen will confeſs of their perſonal tithes (which is the only way they can be had, now the oath for diſcovering them is taken away), and how much the clergy will be contented to accept: certainly this may be agreed and compounded, either by the parties themſelves, or elſe by an arbitrator,

trator, whom they ſhall think fit to ſubmit the matter to, without any need of an act of parliament to confirm the award. And this is exactly the caſe at *Norwich*. Perſonal tithes are here due, as well as in all other cities and towns of trade in this realm. The manner how they ſhall be paid, now the oath for diſcovering them is taken away, was the only thing in diſpute. This both parties agreed to refer to King *Charles* the Iſt, and bound themſelves to abide by his determination: and hereon, after full examination had of the matter, he did, by the advice of his council, make this award. And ſince thereby no former law is altered, or any new tax impoſed, but only a method and manner ſettled how the citizens of *Norwich* ſhould pay their perſonal tithes, an old and undoubted right, that is, after the rate of two ſhillings of the pound out of the rents of their houſes; certainly there can be no need of a new law to confirm that, wherein no alteration of law is made.

And as to the other award of the 37th of King *Henry* the VIIIth, the ſame is to be ſaid as of the former. It was not intended for the ſettlement of any thing on the behalf of the clergy, but to unſettle and take from them what had been by good law before eſtabliſhed; and ſuch an alteration of law not being good without a law of purpoſe for it, for this reaſon was it that the act of parliament was obtained, which gave warrant thereto, not by the clergy of *London*, but ſolely at the petition, and in the behalf of the citizens, who were to have the benefit of it. They had gotten a great abatement by the former award, but not being content therewith, they inſiſted on ſeveral pretences to have more, and in order hereto preferred a bill in parliament, but that not ſucceeding, the matter was referred by the conſent of both parties to ſeveral Lords of the council to be ended between them by their arbitration and award. And after this ſubmiſſion was made, the citizens to make thoſe advantages ſure to them, which

which they hoped to obtain by it, procured an act of parliament to warrant and make valid in law, w.atſoever ſhould be determined hereon. For the dues of the clergy in *London* having been before firmly ſettled by law, nothing that had not the force of a law could make any abatement or diminution from them.

And this being the whole reaſon why both theſe acts were obtained to confirm and make good thoſe awards for the city of *London*; from hence nothing can be argued to prove any neceſſity for a like act of parliament to confirm this award for the city of *Norwich*, the caſe being quite otherwiſe. For here no old law is altered, nor any new one impoſed, but only a judicial determination made of a difficulty and diſpute ariſing about the execution of a law for the payment of perſonal tithes, which had been long eſtabliſhed, and therefore there was no need of interpoſing the legiſlative authority in this matter, the judicial alone being ſufficient for it. For what King *Charles* the Firſt did herein was no more than a meer act of judicature upon laws before made. That he did it in his privy council, he was ſufficiently authorized by the ſubmiſſion of both parties; and had he done it in his legal courts, he would have been ſufficiently authorized by his regal ſovereignty. For there doth not a term paſs, in which decrees are not made both in *Chancery*, and the equity part of the Exchequer, which in point of authority do altogether as much. From the whole of what hath been ſaid of this affair as to *London*, theſe following obſervations may be made.

1ſt, That as often as this matter hath been meddled with in that city, it hath always been referred to be determined by an award, as well when done by act of parliament as when without it, which ſheweth that this was always thought the propereſt way, whereby to ſettle it.

2dly, That none of thoſe awards, which ſettled the manner of paying thoſe perſonal tithes in *London*, were

were ever confirmed by act of parliament, but only those which diminished and took away from that which was formerly settled, which proveth that such a manner of paying those tithes may be agreed and settled according to the rents of houses or otherwise, and hold good in law without an act of parliament to confirm it, and when once settled cannot be overthrown or altered but by an act of parliament.

3dly, Since an act of parliament was always thought necessary, as often as any alteration was made in the settled manner of paying those tithes in *London*, altho' those settlements were all made only by awards without any such acts; this must necessarily argue, that those awards were good and valid in law, otherwise it would not have been thought necessary to make a new law of purpose to alter them. And if they were good and valid in law for the city of *London* in this matter, why may not the like award made for the city of *Norwich* be good in law also? From hence it may rather be argued, that such an award may be made and hold good in law, though never confirmed by any act of parliament; but that, when made, it cannot be taken away without one.

And thus far having endeavoured in justification of this award, to prove the legality of it, it remains that I vindicate the justness and reasonableness of it; in order whereto I shall shew, 1st, That it is just and reasonable that personal tithes be paid in cities and towns, as well as predial and mixed tithes in country parishes; and then secondly, That the payment of them according to this award is in respect of the tradesman very reasonably and moderately stated.

1st, It is just and reasonable, that personal tithes should be paid in cities and towns, as well as predial and mixed tithes in country parishes, because otherwise there will be no established settlement at all in such places for the maintaining of God's ministers to support his worship. For in them for the most part there are neither predial nor mixed tithes, and

and therefore if perſonal tithes be not there paid, there will be nothing at all for the carrying on of this great end, which the worſt of heathens never yet abſolutely neglected. For even among them nature was never ſo far corrupted but that they preſerved ſome notions of a God, and of the duty incumbent on them to worſhip and adore before him, and therefore in all places they provided for it in maintaining prieſts, and temples, and altars for this purpoſe. For the light of nature, which directed them to the worſhip of God, dictated to them alſo the providing of perſons and things in order to the performing of it. And if we do not utterly caſt off the worſhip of God, we muſt do ſo too. That a ſufficient maintenance be provided in all places for God's miniſters, is by all acknowledged to be a divine law. The law of nature, which is written by the finger of the Creator himſelf in the hearts of all of us, in that it dictates unto us the worſhip of God, muſt neceſſarily dictate this too as the means in order thereto, and and the goſpel * often commands it. And therefore, altho' many have denied the divine right of a tenth part, yet none that have owned the name of *Chriſtians*, (except only the wild ſect of the *Quakers*, as hath been aforeſaid) have ever yet denied the divine right of a ſufficient maintenance. And doth it not then unavoidably follow, that whereſoever ſuch a maintenance is not provided, there the inhabitants of the place all live in a conſtant breach of a divine law?

And where there are no predial or mixed tithes, how can this maintenance be better ſettled than by perſonal tithes out of the gains which each man makes by the trade which he follows? For ſince the gain of the ſhop and the warehouſe, as well as the products of the field, are all the fruits of God's bleſſing, what is more reaſonable than that he ſhould have a tribute out of the one as well as out

* 1 Cor. ix. 13, 14. Gal. vi. 6. 1 Tim. v. 17, 18.

of the other, for the ſupport of his worſhip, that ſo continual praiſe may be rendered to our great benefactor, who gives us all that we are or have? Is God only to be worſhipped in country villages, and not in towns and cities, that tithes, ſhould be paid for the ſupport of his worſhip only in the former, and not in the latter? Or do the gains of the ſhop and the warehouſe come ſo much harder than the gains of the field, that the one ſhould be excuſed more than the other? Is not the countryman up early and late, abroad in all weathers, and in all ſeaſons, and in hard labour, conſumed by the drought in ſummer, and the froſts and the rains in winter, while the tradeſman ſits at home in his ſhop or counting-room, ſecure and ſafe from all ſuch hardſhips, and there (with much leſs labour) gets his pounds where the other gets his ſhillings? And will it be reaſonable then, that the countryman ſhould be laid a full tenth of his income for the public ſervice of God, and the other nothing at all? In all ſuch public payments to make them eaſy and juſt, an equality ought to be obſerved, and none be made to pay leſs than other, much leſs any be excuſed from paying any thing at all. And yet if perſonal tithes be not paid, thoſe will be excuſed, who are beſt able to pay. For who are better able to do this, than the tradeſmen that live in cities and towns? Have not they all the wealth and money of the nation in their hands? Do not they live in the greateſt plenty, and get their eſtates with the greateſt eaſe? And can it be juſt and equal then, that when the poor countryman pays his full tithes, thoſe ſhould be allowed to pay none at all.

All that can be ſaid in anſwer hereto is, that the gains of the countryman are the product of the field, but the gains of trade are all the product of the perſonal pains and labour of the tradeſman, and that therefore there is a reaſon for the one which is not for the other, otherwiſe when God commanded the payment of the tithes of the field in the *Levitical* law, he

he would not have omitted the commanding of the like payment out of trade alſo, but there were no ſuch perſonal tithes under the *Levitical* law, as hath been afore acknowledged. To this I reply,

1ſt, That though the diſtinction of perſonal and predial tithes is founded in this, that the one is from the field, and the other from the perſonal pains and labour of men; yet if no tithes be called predial, but what are merely from the ground, and all perſonal that are from the labour of men, there will be no ſuch thing as predial tithes at all. For if Mr. *Locke*'s computation be right, there is that great diſproportion between the ground, when in its natural ſtate, and when improved by man's labour,* that of all the products of the field, ninety-nine parts in an hundred are owing to the labour of men, and the hundredth part only to the natural ſoil, and for that part the ſeed that is ſown for the crop doth more than make a quadruple amends. And therefore, ſtrictly ſpeaking, the countryman's gains are as much from perſonal pains and labour as the others; and conſequently, if this be a reaſon to excuſe from the payment of tithes in towns and cities, it will be as good a reaſon to excuſe from the payment of them in the country too, and then there will be none paid at all.

That there were no perſonal tithes paid under the *Levitical* law cannot argue that therefore there ſhould none be paid now, the caſe being quite different. For the reaſons why no ſuch tithes were then paid, were, 1ſt, Becauſe there were then none to pay; and 2dly, Becauſe if there had, there was no need of them. And 1ſt, There were no perſonal tithes then to pay: for the *Jews* being forbid, while they dwelt in their own land, to hold any converſe with thoſe of other nations, leſt they ſhould be ſeduced by them to idolatry, none of them did then live by

* Eſſay concerning the true original and extent of government, chap. 5.

trade or traffick; but each man had his ſhare in the land, which he cultivated, and thereby maintained himſelf and family, and of that paid alſo his tithes. That there were among them ſmiths, and carpenters, and other ſuch mechanicks for the neceſſary uſes of life, cannot be denied, for we read of them in the ſcriptures, but the gains of thoſe trades among them were only as the wages of the day-labourers, which being daily ſpent in the neceſſaries of life, for the ſupport of thoſe that earned them, left none or very little clear profits over for any ſuch perſonal tithes to be paid out of them, and therefore then there could be none ſuch among them. And if there could, 2dly, There was in that œconomy no need of them: for the uſe which tithes were applied to under the *Jewiſh* ſtate, was only to ſupport the temple and temple ſervice, and maintain the Prieſts and Levites, who officiated therein, for which purpoſe thoſe tithes being equally diſtributed among them, all had a ſufficient maintenance, and the ſervice of God, as long as they were duly paid, never ſuffered through want of what was neceſſary to ſupport it. But the caſe with us is quite otherwiſe: for we are a trading people, and the beſt part of the wealth of the nation conſiſts in the gains that ariſe thereby. And can it then be reaſonable, that the whole burden for the maintaining of thoſe, that miniſter in holy things, ſhould be caſt upon the product of the land only, which is the leſſer part of our wealth, and the other, that is the product of trade, which is much the greater, go wholly free? And if this part be permitted thus to go free, and no ſuch perſonal tithes be paid out of it, how much the honour of God, and the intereſt of religion muſt be prejudiced hereby, the great damage, which hath been done to both in many places of this kingdom through the want of theſe tithes, ſince the legal remedy for their recovery hath been taken away, doth abundantly demonſtrate. For there is as much need of thoſe tithes for the ſupport of the honour of God and

and his holy religion among us, as there is for the other: perſonal tithes being as neceſſary for this purpoſe in cities and towns, as predial and mixed tithes are in the country. For our tithes do not all go to the maintaining of one temple only, as they did among the *Jews*, nor are they all in common equally to be divided among all, that officiate in the divine ſervice throughout the whole nation, as it was with them, but we have in this land ten thouſand temples, and each of them have ſeparately and apart appropriated to them the tithes of the place or pariſh, in which they ſtand, for the maintaining of thoſe who officiate in them. And ſince in many of thoſe places or pariſhes among us there do no predial or mixed tithes ariſe, if perſonal tithes be not paid in ſuch, there will be no tithes at all in thoſe places for the maintaining of God's miniſters, and the ſupport of his honour and worſhip in them; and this ſufficiently ſhews how much need we have of this ſort of tithes in our conſtitution, though the *Jews* had no need of them in theirs. And although for theſe reaſons we have no precedent from them for the payment of this ſort of tithes, yet this can make nothing againſt them, ſince we have a much earlier one for them in the firſt inſtance of the payment of tithes, which we meet with in holy writ. For thoſe tithes which *Abraham* paid *Melchiſedec*, the prieſt of the moſt High God, after his victory over the four kings, were perſonal tithes; for they were neither of the field, nor of the flock, but of the gains which were gotten by the labour and ſucceſs of war. And ſince the chriſtian prieſthood is formed according to the order of *Melchiſedec**, and not according to that of *Aaron*, which is now aboliſhed and done away; certainly a precedent from the former ought to be of as great force with us for this ſort of tithes, as a precedent from the latter for the other.

It will be ſaid, that though perſonal tithes be not now

* Heb. v. 6. chap. vii. 11, 12, &c.

now paid in cities and towns, as formerly before the ſtatute of King *Edward* the ſixth took away the means of recovering them, yet voluntary contributions are made in their ſtead, and theſe do as well. To this I anſwer, that they are ſo far from doing as well, that of all the ways whereby proviſion hath been made for the miniſters of religion, this is certainly the worſt, eſpecially as now practiſed among us. For theſe voluntary contributions do moſtly fall very much ſhort of a competency, are liable to great abuſes, are very prejudicial both to church and ſtate, and are paid with great inequality: and therefore they do by no means compenſate for the ſubſtraction of thoſe perſonal tithes, or do in any meaſure anſwer the end for which they were appointed, but do often become the cauſe of obſtructing that end, by promoting hereſy, ſchiſm, and diſorder, inſtead of the true worſhip and honour of God, and introducing a contempt and neglect of religion, inſtead of propagating and advancing it, as ſhall particularly be ſhewn under the heads I have mentioned.

And 1ſt, Theſe voluntary contributions do fall very much ſhort of a competency; and how much they do ſo in this city of *Norwich*, will beſt be ſhewn by laying before you, what they did here amount to in the year 1677, when they were at the higheſt. At that time an account was taken of what the certain endowments, and what the arbitrary contributions in every pariſh aroſe to, and by this account it appears, that *twelve* of theſe pariſhes were under the value of 20l. per annum, and all but *ſeven* under 30l. and of thoſe *ſeven*, but *two* only † can be ſaid to be a tolerable competency for a miniſter in ſuch a city, and how long theſe ſhall be ſo, depends wholly upon the will and pleaſure of the inhabitants. And the caſe is the ſame in moſt of the other cities, and larger towns of the kingdom. And that ſuch mean allowances can be called competences,

† St. *Peter*'s of *Mancroft*, and St. *Andrew*'s.

petencies, or ſufficient maintenances for a miniſter, eſpecially in great towns and cities, where the cures are more laborious, and the charges of living much greater, is what thoſe, who are the moſt maliciouſly bent for the keeping of the clergy low, can ſcarce have the confidence to ſay: for what is a competency in this caſe, muſt be eſtimated with reſpect, firſt, To the miniſter, who is to be maintained; 2dly, To the honour and intereſt of religion, which is to be ſupported and promoted by him; 3dly, To the poor, who are to be comforted, and relieved by his charity; 4thly, To the people, who are to be inſtructed, and taken care of by him; and 5thly, To the charges of living, which he muſt be at in the place where he is called. And when the miniſter's maintenance is ſufficient for all theſe purpoſes, then only is it, that it can be ſaid to be a competency for him.

And, 1ſt, In reſpect to the miniſter, it muſt be ſufficient to maintain him in a manner ſuitable to his education and profeſſion. For the education of a miniſter is very chargeable, and therefore if the maintenance afterwards doth not in ſome meaſure anſwer it, who will breed up their children for the employment? Were miniſters no better provided for elſewhere, than they are for the moſt part in the great towns and cities of *England*, the profeſſion would ſoon be deſerted, and the miniſtry of the goſpel muſt deſcend like *Jeroboam*'s prieſthood, to the meaneſt of the people. We have an inſtance of this already in *Wales*; where to read and to write are in many places all the qualifications required for a miniſter, becauſe the maintenance is ſo low, as not to deſerve any better. For where men can make a better livelihood at mechanic trades, (which coſt them nothing, but a ſeven years apprenticeſhip to learn them) than they can by the miniſtry, who will be at the charges of a learned education to qualify themſelves for it? And what mechanic is there in the city of *Norwich*, (and ſo I ſuppoſe it is in other places,

places, where arbitrary contribution only is the maintenance) who is not better paid than the minister? Which of them is there, that cannot earn his ten shillings a week, that doth with any tolerable industry follow his employment? This is the common wages of the carpenter and the mason, the thatcher and the tiler; and yet putting all these parishes together, and equally dividing their income, as above stated, according to their number, there will be but ten shillings a week for every minister, that serves them, and one penny over. The education for the profession of a minister is also to be considered; for it is not a mechanic, but a learned profession that he is of, and all professions of learning have ever been esteemed honourable, and for such an honourable maintenance ought to be provided. The three learned professions with us, are divinity, law, and physick; and divinity being the first in place and dignity, how hard is it, that it should be depressed so far below the lowest in maintenance, and the way of living, as we too often find it to be? And that when the lawyer and the physician are encouraged with such large rewards, as often do raise them large fortunes for themselves and their families, the divine, from whose ministry depends our highest interest, should want what is sufficient to support him in his function: certainly where there is wanting what is sufficient to support him in such a manner as shall be suitable to his education, and suitable to the honour and dignity of his profession, there his maintenance can by no means be said to be competent for him.

2. In respect to the honour and interest of religion, the maintenance of a minister, in order to a competency, ought to be such, as will sufficiently enable him to support and promote it. For this is the end of his office, and the reason of his appointment to it, and for this end and reason only is it, that the law of God doth require, that a maintenance be allowed unto him, and therefore it ought to be such,

ſuch as will put him in a condition to anſwer this reaſon, and fully come up to this end, in the diſcharge of the office, which he is called unto. And as far as it falls ſhort of this, ſo far it muſt alſo fall ſhort of that competency, which is his due, and of the law of God, which commands it to be given unto him. Now to put a miniſter into ſuch a condition, as may fully enable him to ſupport and promote our holy chriſtian religion according to the duties of his office in the ſtation, where he is called, beſides abilities of learning and knowledge, (which I ſhall ſpeak to by and by) it is alſo neceſſary, 1ſt, That he maintain and hold up ſuch a figure in the way and manner of his living, as ſhall be agreeable to the honour and dignity of his function; 2dly, That he have a ſpirit and vigour of mind ſuitable to his work; and 3dly, That he keep up ſuch an authority among his people, as may make his miniſtry effectual unto them for their everlaſting ſalvation. For if he doth not live up to the dignity of his function, and have a ſpirit ſuitable to the work thereof, he will never be able to diſcharge the duties of it as he ought; and though he ſhould, yet ſtill if he have no authority among his people, it will be all to no end and purpoſe. And therefore to enable him fully to anſwer the end of his miniſtry, and the reaſon of his appointment to it, all theſe are abſolutely neceſſary for him, and without a competency to ſupport him with ſufficiency and credit in his ſtation, it is ſcarce poſſible he can have any one of them.

For 1ſt, As to the dignity of his function, he is ſent an ambaſſador of God to bring the meſſages of life and ſalvation unto the ſons of men; and if he be not maintained in a condition ſuitable to his character, both his conduct and his credit will ſoon ſink beneath it, and this muſt neceſſarily expoſe him to neglect and contempt among thoſe to whom he is ſent. And when a miniſter once becomes neglected and contemned by his people, this too often operates to the making of religion itſelf for his ſake to

become neglected and contemned alſo. And if we ſhould make an impartial ſcrutiny into the cauſes that have brought this lamentable decay upon our holy chriſtian religion, which is now ſo viſible among us in this land, I reckon that contempt which is caſt upon our miniſters, by reaſon of the low and mean circumſtances of life, which through the impropriating of predial tithes, and the ſubſtracting of perſonal, the growing of cuſtoms and *modi decimandi*, the prevailing of ſimony, the exacting of bonds of reſignation, and other ſuch hardſhips, which the greater part of them are now reduced unto, will be found to have been the moſt prevalent of all to work this impious and deplorable effect among us. It is reckoned one of the greateſt hardſhips of poverty that it makes men ridiculous, but it never doth more ſo, than when joined with a great character. For a great character and a mean figure, when put together, muſt neceſſarily make a very awkward and ridiculous appearance; and if the miniſters of the goſpel can make their appearance among their people in no other dreſs but ſuch an one as this, neither the character they are under, nor the qualifications of their perſons, how eminent ſoever, will be able to protect them from their contempt, but they muſt unavoidably, in this caſe, ſoon grow to be mean and deſpicable in their eyes. And when the teachers and miniſters of religion are brought down to ſo low an eſteem, it is the readieſt way to ſink the whole work and buſineſs, on which they are ſent, as low alſo, and make even religion itſelf to be contemptible among them, for the ſake of thoſe that teach it. For in this caſe men do not always ſeparate the perſons from the work and profeſſion, in which they are employed; but if they once come to contemn the perſons of their miniſters, the next ſtep uſually is to neglect and deſpiſe all the duties and doctrines of our holy chriſtian religion which are taught by them; and too many are the inſtances which we have hereof in this prophane and atheiſtical

atheiſtical age in which we live. And although this extremity of ill effect doth not always follow herefrom, yet I think it may be ſaid by undeniable experience, that it is always in ſome degree found, wherever there is this cauſe to produce it, and that it ſcarce ever happens but that where the miniſters are out of credit and eſteem among their people, it detracts ſomething from the credit and eſteem of the religion itſelf, in which they officiate, and wherever that ſinks in its credit and eſteem, there its influence and its intereſt muſt unavoidably ſink alſo, and fall into decay. And this is a conſequence which the ancient fathers of the church were ſufficiently aware of; and therefore to ſecure the honour and reſpect which is due unto our holy chriſtian religion, from ſuffering any thing from the perſons that miniſter in it, nothing was more their care than to provide, that none ſhould be admitted into the miniſtry, who lay under any defect, either moral or natural, that might expoſe them to contempt, well knowing that the contempt of the miniſter too often draws after it a contempt upon the religion itſelf in which he officiates. And this is the reaſon we have ſo many canons in the ancient codes of the church, which exclude from the ſacred function not only thoſe who have upon them the blot of any paſt notorious crime, but alſo all others, who are under any other circumſtances that may provoke contempt, or bring any diſgrace to their perſons, how innocent ſoever they may be from all manner of guilt, as to the cauſes from whence they proceeded. But what need all this care, if miniſters be not at the ſame time preſerved from poverty, which doth more expoſe them to contempt, ſcorn, and diſeſteem, than all theſe put together? And therefore that maintenance which falls ſhort of doing this, cannot anſwer the end of its appointment, or can be that competency which is neceſſary to be allotted unto them.

And 2dly, There is as much need that their ſpirits and vigour of mind be kept up, as well as their cre-

dit and reputation. For they have a great work to do, which without a vigorous mind they will never be able to go thorough with ſucceſs. They are to teach, to exhort, to admoniſh, and to rebuke. They are to reform men's exorbitant paſſions, and lead them by doctrines, which thwart their ſtrongeſt inclinations, and carry them counter to their moſt beloved affections and deſires; and to do this needs a ſtrong vigour of mind, a firm reſolution, and ſuch a courage and ſteadineſs in the duty, as muſt not be over-born by the fear or affection of any one in the diſcharge of it. But how can they do this who are oppreſſed with poverty, and diſheartened and diſpirited by a low and miſerable maintenance? In this caſe they cannot appear in a mien, or put on an outward preſence fit for ſuch a work, or can they have that courage and reſolution of mind, which is neceſſary to perform it. For poverty uſually ſinks men to a meanneſs of ſpirit and extinguiſheth all that is generous in them; it blunts and ſpoils the beſt parts, turneth the edge of the ſharpeſt wits, and takes from learning itſelf its efficacy, and its power, and reduceth men to mean thoughts, as well as neceſſitates them to the doing of mean and baſe things; and often makes ſuch, whom nature hath qualified for every thing, to become, by a vile depravation of all that is within them, too mean for any thing. And if you put miniſters into this ſtate, it will certainly have the ſame effect upon them, and they will be ſoon ſunk thereby below their function, and their work, and be left without heart, courage, or abilities to perform any of the duties of it as they ought. And many there are by this means who have been render'd unfit for the diſcharging of them, who otherwiſe might have proved uſeful and able miniſters in the church of God, and great is the damage which religion hath ſuffered hereby in this land.

3dly, As it is neceſſary that a miniſter be maintained in credit and honour, and have a ſpirit and vigour of mind ſuitable to his work, ſo alſo is it, that

that he have authority among his people to make his miniſtry effectual among them, otherwiſe he will be neither heard when he inſtructeth, or be regarded when he exhorteth, admoniſheth, or rebukes, but all that he doth will come to nothing, or be to no end or purpoſe among them. For when poverty hath ſunk his credit and reputation below his function, and made him contemptible, and the want of the neceſſaries of life hath depreſſed his mind below the work of his miniſtry, and the power and courage of duly exerting of his parts therein, how is it poſſible that ſuch an one can have any authority among his people, to influence them in any thing they do? To inſtruct, direct, admoniſh, exhort, and rebuke, which are the duties of a miniſter, require ſomething of ſuperiority in him that doth it, but the people will never look on him as a ſuperior, or treat him as ſuch, whom poverty hath brought down to the ſame level with the meaneſt among them; ſo that he can neither make an appearance which ſuits with authority, or put on a ſpirit that can either claim it, or exert it. Among the generality of men, riches, and the power which thoſe give, are looked on as the only ſtandard of honour and eſteem, and are the main foundation of all that authority and influence which one man hath over another in this world. And therefore if a miniſter hath not alſo ſomething of this in the ſtation where he is placed, he will neither be attended to, nor regarded in any of the duties of his miniſtry, but the contempt of his perſon will draw after it a contempt of his doctrine, and of his inſtructions among his people, and all that he ſhall ſay unto them, being without influence or authority, will be of no effect for the benefit of our holy chriſtian religion, which he is ſent to promote, and conſequently the whole of his miſſion muſt neceſſarily, through this defect, miſcarry and come to nothing.

And therefore it being made thus evident, that a miniſter cannot diſcharge his duty with that ſucceſs which

which is neceſſary for the anſwering of the end of his miſſion, unleſs he be maintained with that honour and credit, which is ſuitable to the dignity of his function, and be in ſpirit and vigour of mind kept up to the greatneſs of his work, and have an authority among his people to be heard and regarded by them; that maintenance, which is not ſufficient for all this, cannot promote that work, and conſequently cannot anſwer that end for which it was appointed, and therefore can never be reckoned a ſufficient competency for him.

3dly, A competency for a miniſter is to be eſtimated with reſpect to the poor, who are to be comforted and ſupported by him. For to take care of the poor was the original reaſon of the firſt orders he was admitted to, and he is not diſcharged of it by being made a preſbyter. And in this land, till the ſtatute of the 43d of Queen *Elizabeth* appointed ſpecial overſeers of the poor, they were in every pariſh under the care of the miniſter, who having under him his church-wardens for his aſſiſtants in this matter, did, with them, out of the poor's box, the alms of religious houſes, the offerings of the people, the legacies of the dead, and what other funds of charity they could procure, provide for all the poor within their reſpective cures. And although they are now by the ſtatute of the land eaſed in a great meaſure of this burden, yet they are not of the duty of charitably relieving thoſe that want it. For charity being a principal duty of our holy chriſtian religion, which all miniſters are to preach to their people, and excite them to; they ought alſo to be an example to them herein, and it is generally expected in every place, that the miniſter ſhould be the moſt charitable man in his pariſh; and that as in all other duties, ſo eſpecially in this, he be the moſt exemplary among them. And accordingly upon preſumption that he is ſo, whenever any poor perſon wants relief, he is uſually the firſt, that is applied to for it, and it expoſeth him to reproach and hard cenſure,

ſure, and his miniſtry ſuffers hereby, in its credit, influence, and authority, if he be not the moſt forward, and the moſt liberal in giving upon all ſuch occaſions. And often on his viſiting the ſick poor, he will find ſuch miſerable objects, and ſuch craving reaſons for their relief, which without being void of all bowels of compaſſion, as well as of all chriſtian charity, he will never be able to reſiſt. And therefore that maintenance, which is not ample enough to ſupply him for this, as well as for all other occaſions, cannot be that competency, which is to be provided for him.

4. A competency for a miniſter is to be eſtimated with reſpect to the people, who are to be inſtructed and taken care of by him, and according as they need higher inſtructions, and a greater care (as they do in ſome places more than in others) ſo ought there to be a larger and more honourable maintenance provided for him to encourage his labour herein, and reward thoſe abilities, which are neceſſary for it. In order to teach and inſtruct the people in the doctrines and duties of our holy chriſtian religion, there muſt be a ſufficiency of learning and knowledge in the teacher; and to take that care of them, which he ought, in guiding them in the truth, and protecting, and defending them againſt all thoſe who would pervert them from it, he muſt fully know, where the ſtrength of every erroneous doctrine lies, and be furniſhed with all ſuch arguments and anſwers, both from ſcripture and reaſon, as ſhall be ſufficient to refel and refute it. For without being himſelf a thorough maſter of all that knowledge, which he delivers as a teacher, he can never well inſtruct others in it, and without being thus ſufficiently armed for the ſubduing of every error, he will never be able to maintain the truths of our holy chriſtian religion againſt all that will oppoſe them, or be able long to keep his people in the profeſſion of them: And to render a man thus able for the miniſtry, and make him a thorough and compleat divine, fully qualified for

for all the duties and offices of his function, these following particulars are required: 1st, That he have well digested in his mind, a full and thorough body of divinity. 2dly, That he do well understand the holy scriptures, and be able out of them to maintain and defend all the divine truths of our holy christian religion, and answer and refute all objections and false glosses that may be raised against them. 3dly, That he well understand all the modern controversies; what it is that the *Atheist*, the *Deist*, the *Jew*, and the *Socinian* say against our holy christian religion, and what it is that the *Papists*, and the *Presbyterian*, the *Anabaptist*, the *Quaker*, and the *Independent*, object against it, as reformed and established in our church, and be able to give proper answers thereto. 4thly, That he understand the constitution of the primitive church, and be well versed in ecclesiastical history. 5thly, That he be well skill'd in cases of conscience, and able safely to guide all such as shall come unto him to be directed herein. And 6thly, That he be master of logick, to argue clearly and methodically in all his discourses; and also of rhetorick, to express every thing he delivers to the best advantage. I acknowledge there is not so great a necessity for an eminent proficiency in all these in every country village, because in such there will not be so great a use of them. And therefore as in many of these a lesser portion of learning may be enough for the work, so a lesser maintenance in proportion hereto may there suffice. But in cities and larger towns, the case is quite otherwise. For here they are not only the greater number of souls, that are to be taken care of, but here also they will need the greater care to be taken of them: for in such places mostly do the heretick, and the schismatick abound; and hither usually is the greatest resort of those wolves, who make it their constant business to devour the flock of Christ; and here the idle libertine, and the lewd debauchee, mostly make their rendevouz, for the promoting of vice, disor-

der,

der, and all manner of licentiouſneſs; and here alſo are the moſt of thoſe to be found, who indulge the wild fancies of *Atheiſm*, *Deiſm*, *Socinianiſm*, and ſuch other impieties, as this age is now too fertile of. And to oppoſe all theſe errors, corruptions, and impieties, and keep the flock of Chriſt, which is among us, from being tainted and poiſoned by them, as it will need the greater pains and vigilancy in the miniſter to be exerted and employed herein, ſo alſo will it the greater ſkill and proficiency in learning and knowledge to enable him to do it. Upon all theſe conſiderations, in all ſuch cities and larger towns, the ableſt and moſt learned miniſters ought to be placed, becauſe in them religion will always ſtand in need of the beſt and ableſt performances of the miniſterial function to ſupport and promote it; and all the parts of learning and knowledge which I have above-mentioned, will often here be neceſſary in the miniſter in order hereto. But for a miniſter to furniſh himſelf with all this learning, and make himſelf maſter of all this knowledge, will require a great deal of hard pains, labour and ſtudy in the acquiſition of it, and alſo coſt him as great an expence of time and money, while he is making his progreſs in it. And certainly all theſe pains, labour and ſtudy ought to have their full reward, and all this expence a ſuitable compenſation made for it. And therefore in all ſuch cities and larger towns, where to anſwer the needs of thoſe cures, there ought to be miniſters of the beſt abilities of learning, knowledge and parts, that maintenance for them, which is not ſufficient to reward all that labour, pains and ſtudy, and compenſate for all that expence of time and money, whereby thoſe abilities are acquired, in proportion to the need that in every ſuch place there is of them, cannot be a competency ſufficient for them. And in ſuch places the labours of the cures by reaſon of the largeneſs of the flock are as great, as the labours of the ſtudy to acquire abilities for them. For here more people are to be watched over, more ſick viſited, greater pains to be

taken in preaching, and more work to be done in every other office of the miniſterial function, than in country pariſhes, and therefore here certainly a better maintenance ought to be provided for the reward hereof. But it may be here objected, that all that are placed in ſuch cures, are not thus learned and able. To which I anſwer, I do not argue from what they are, but from what they ought to be in all ſuch places, and which I doubt not moſt of them would be, were there encouragements ſufficient for them. For that there are not in all ſuch places miniſters ſo able and learned, as the number and quality of the people, and the needs of their ſouls may there require, is moſtly owing to the poor and mean pittances, which their maintenance is now, by the alienating of predial tithes, and the ſubſtracting of perſonal tithes, in moſt of thoſe cures reduced to, which are by no means a reward for learning, or can afford any tolerable ſubſiſtence for men, that are in any meaſure endowed with it. And the lamentable effects hereof we find in the many hereſies, ſchiſms, and errors, and other apoſtacies from truth and righteouſneſs, which now prevail among us. For all theſe have had their births in our cities and larger towns, and from thence have now, like a deluge of miſery and iniquity, in a woful manner overflown the whole land. Had we had able ſhepherds in all ſuch places to watch over their flocks, all this evil might have been prevented. For ſuch would have been able to have kept them from going aſtray, would have had antidotes ready to expel every poiſon of error adminiſtred unto them, and would have cured every ſuch contagion in its firſt beginning, and never have ſuffered it in ſuch a manner, as we now ſee, to have ſpread its infection through all parts of the nation. But how can we expect that men, endowed with ſuch abilities of learning, knowledge and parts, will beſtow their labours, where there is no reward for their merit, or any proviſion to maintain them in a manner ſuitable thereto? And how inſufficient for this the miniſter's portion is in thoſe cities

cities and towns where it is raiſed by the voluntary contributions of the people, we are content to leave it to any one to judge. Thoſe who are men of higher merit and abilities, have reaſon to expect higher encouragements and rewards, where-ever they are employed; and therefore if the circumſtances and condition of ſuch larger and more populous cures do infer a neceſſity (as I think I have abundantly ſhewn that they do) that men of ſuch eminency only ſhould be employed in them, they prove alſo a neceſſity, that a maintenance ſuitable to their worth ſhould be there provided for them

5. A competency for a miniſter is to be eſtimated with reſpect to the charges of living, which he muſt be at in the place, where he is called. For in ſome places men may live much cheaper than they can in others; and where the maintenance will coſt leſs, there leſs will ſuffice to be allowed for it, and where it will coſt more, there the allotment muſt be made in proportion to it. And it is well known, that in cities and larger towns the charges of living are much greater, than they need be in a country village, therefore in thoſe places a larger maintenance ought to be allow'd miniſters in conſideration hereof, otherwiſe it will not be there a competency for them.

And thus far having ſhewn what a competent maintenance for a miniſter is, how much theſe voluntary contributions (whereby here and in moſt other cities and larger towns of this kingdom the maintenance of miniſters is made up) do fall ſhort hereof in every reſpect that I have above-mentioned, is too plain a caſe to need a proof; and how then the guilt of ſacrilege can be avoided in thoſe places where there is no other proviſion for God's miniſters, I cannot ſee. Tho' the divine right of tithes hath been diſputed by many, the divine right of a competent maintenance for God's miniſters never hath by any, as I have afore-obſerved, but all that have owned the name of *Chriſt*, 'till the wild ſect of the *Quakers* lately aroſe, have always allowed, that thoſe who miniſter

to men in ſpiritual things, ought to be maintained by them in temporal things, and in ſuch a manner, as ſhall fully enable them to anſwer all the ends of that miniſtry, to which they are called. The law of nature, which commands the worſhip of God, doth alſo command this as a neceſſary means in order thereto, and the law of the goſpel frequently enjoins it, and it hath every where been an immutable law of religion among all nations, who have ever obſerved any religion at all, to provide maintenance for the miniſters of religion, and in ſuch a manner as might beſt conduce to the honour, intereſt, and ſupport of that religion which they were of. And the *Quakers* themſelves, how much ſoever they ſeem to be againſt it in doctrine, have been neceſſitated to come to it themſelves in practice, and do * allow ſalaries to their preachers as well as we, whatſoever they may pretend to the contrary, and in a much more plentiful manner than the legal miniſters of the eſtabliſh'd church are provided for in the beſt cities and towns of this realm, it being utterly impoſſible for any ſect or party of men whatſoever to maintain and keep up any religion at all among them without providing for the miniſters of their religion, and in ſuch a manner as ſhall be ſufficient for them. And therefore if the detaining of that from the ſupport of God's worſhip, which is by God's law, both natural and revealed, due thereto, be ſacrilege, (which no one can deny, that allows there is any ſacrilege at all) then certainly it muſt follow, that where-ever a competent proviſion is not made for it, but is detained and with-held, there all that are faulty herein, as far as they are ſo, do live in a continual practice of this great ſin, contrary to God's law and God's honour, and to the great damage of that holy worſhip which is due unto him, and how then can they expect either God's bleſſing or God's mercy, as long as they perſiſt herein? as far as they detract from this competency,

* See *Francis Bugg* of this matter.

petency, they detract from that which God by a divine law hath reserved to himself for the maintenance of his ministers, and as far as they do so, they detract also from the worship of God, which cannot be supported without it. And if this be not robbing of God, I know not what else is. And when no false religion (as I have just now observed) hath ever yet been able to deface this principle of making a sufficent provision for the support of God's worship, and the maintenance of those that minister in it, certainly it must much aggravate the case, if we who are of the true religion should fail herein. Had there been no legal establishment, it would have been every man's duty to have done his part for the supplying of this defect, and in such a measure as would best answer the end for the support of God's honour and worship among us. But when a legal establishment hath been appointed for this purpose by personal tithes, (which if paid according to this establishment would have been sufficient for it) and contrary to this establishment men have substracted those tithes for no other reason but that they cannot now be proved, and do not pay that instead of them which doth amount either to a just compensation for them, or a competency sufficient for the end, for which they were appointed, they take from God that which hath been by man's law, as well as God's law, consecrated to his service, and must by both become guilty of robbery against him herein. And to live in so great a sin is to live under as great a curse. For God hath himself denounced it by the mouth of *Malachi* his prophet, *Cursed are ye with a Curse, for ye have robbed me, even this whole Nation*, Mal. iii. 9. And wherein this robbery did consist, the former verse telleth us, it was in *Tithes and Offerings*, those means which were appointed for the support of God's worship among them, and the maintenance of those who minister'd in it, from whom they were unjustly detained. And if we by witholding those means make ourselves guilty of the same robbery, what else can we expect,

but

but that we have alſo the ſame curſe drawn upon us for the puniſhment of it?

2dly, As thoſe voluntary contributions for the maintenance of miniſters in cities and larger towns do moſtly fall ſhort of a competency for them, ſo alſo are they liable to great abuſes. For they being left to every ones good pleaſure and voluntary diſpoſition, it commonly happens that on any trivial occaſion or unreaſonable diſguſt, and often on very unaccountable humours, they are either cut ſhort, or wholly withdrawn by thoſe, who are to pay them. And hereby I have known it brought to that paſs, that ſome miniſters in *Norwich*, when their church-wardens have gone about to collect theſe contributions, have been forced to go with them from door to door humbly to crave the payment of their ſalaries in the ſame manner as beggars do for an alms, otherwiſe they might have ſtarved for want of them. And after all this humiliation, what was got thereby amounted ſo little, that in ſome of thoſe pariſhes the beggars may be juſtly ſaid to fare better than they. And what can be a greater diſparagement upon miniſters of the goſpel, and the holy function they are called unto, than to be reduced to ſo wild a paſs? and what method of providing a maintenance for them can poſſibly be worſe than this, which is liable in ſuch a manner to be abuſed in the executing of it? and yet this is not the worſt of the caſe neither. For,

3dly, It is very prejudicial, both to church and ſtate, in that it conduceth to the nouriſhing of hereſy and ſchiſm in the one, and ſedition and rebellion in the other, as we have ſufficiently found by woful experience in the late reign of King *Charles* the Firſt. Had there then been ſuch an eſtabliſhed competent maintenance for miniſters, in all the cities and larger towns of this realm, as was endeavoured by this decree to have been ſettled for them in *Norwich*, this would have given encouragement to ſuch ſufficient labourers, to have placed their pains there, as would have been able to have fixed and preſerved them in the

the true principles of ſtedfaſtneſs to the church, and of loyalty to the king that reigned over them; but for want of ſuch, theſe places being in a manner deſerted to the adverſaries of both, falſe teachers took the advantage hereof to creep in, and ſettle themſelves in them, and the poor ſtipendaries, who were there maintained by voluntary contributions, not being ſufficient to oppoſe thoſe wolves who broke in upon their flocks, or not daring to do it for fear of diſpleaſing their people, and loſing that little maintenance they had by their good pleaſure; and ſome of them, to gain the favour of the factious, by a vile compliance concurring with them, the ſeeds of hereſy, ſchiſm, ſedition, and rebellion, which thoſe enemies of truth and peace ſowed in thoſe places, grew ſo faſt, that they ſoon overſpread the whole land, and involved both church and ſtate in that devaſtation, ruin, and confuſion, which after followed. And we have ſtill reaſon to fear the ſame effect may again enſue, as long as there is the ſame cauſe ſtill remaining to produce it, and that eſpecially ſince it hath been found neceſſary to grant them a toleration. For now they being at full liberty to ſet open their ſhops of faction and ſchiſm, in what place they pleaſe, to be ſure they will eſpecially do ſo where they are likely to have the beſt trade, that is, in the cities and larger towns of the kingdom (as accordingly they have done ever ſince this liberty hath been indulged unto them.) And if here they ſo far prevail, as to make a majority (as there is continual danger that ſome time or other they will), then they will be able to ſend ſuch members only to parliament, as ſhall favour their principles and deſigns: and what elſe can we expect from hence, but to be again over-whelmed with the ſame calamity of ruin and confuſion, as ſoon as it ſhall be forgot what we have ſuffered by the laſt, and that it is not yet forgot, ſeems to be the chief cauſe that hath hitherto preſerved us from it. The beſt means to prevent this miſchief, will be to furniſh all the cities and par-

parliament towns of this kingdom with ſuch learned and worthy miniſters, as may be able to adorn their profeſſion, and with a full ſufficiency to diſcharge all the duties of it. For were ſuch men ſettled in thoſe places, and in a ſtate of freedom and independency from the humours of the people, they would be able thoroughly to countermine all the deſigns which the promoters of faction and ſchiſm may at any time be a carrying on to the endangering of the publick ſafety, either of church or ſtate, and by their worth and abilities, influence all men to be ſteady and firm to the true intereſt of both, and they would be able, by their learning and parts, to baffle, confute, and root out every error and falſe opinion, and ſo ground their people in the true principles of religion and loyalty, and ſo form their minds to the practice of them, that faction and ſchiſm would ſoon be trodden under foot, and neither church nor ſtate be any longer in danger from either of them. But it not being to be expected, that this can be done as long as miniſters in thoſe places have nothing elſe to depend upon for their maintenance, but the pleaſure of the people, and their lean contributions, the danger will remain with the cauſe, and neither church nor ſtate can be in ſafety from it.

And 4thly and laſtly, Another great inconvenience from theſe voluntary contributions, is, That they are paid with great inequality. Were perſonal tithes duly paid, then all would contribute alike of the increaſe of their ſubſtance, according as God ſhall have bleſſed each man herein. But now they are left to their own liberty, every man to give as he ſhall think fitting; the *Quaker*, and others of the perverſer ſort of *Diſſenters*, the vile nigard and the irreligious, wholly ſlip their necks from this burden, and bear no part of it all. And others too often proportioning their contributions to the covetous deſire of ſaving their money, or to other paſſions, humours, and inclinations, which are predominant in them, rather than according to what of right

right they are obliged to do, are not only unjuſt to God, and his church, in giving leſs than is fitting, but alſo to their neighbours, in not giving in that juſt proportion to each other, which they ought.

And thus far having ſhewn that it is juſt and reaſonable that perſonal tithes ſhould be paid in cities and towns, as well as predial and mixed tithes in country pariſhes, or elſe ſuch a compoſition in lieu of them, as will make a competency for the miniſters that officiate in them; it only now remains that I make it appear that the compoſition of two ſhillings of the pound out of the rents of houſes, which is awarded by the decree of King *Charles* the firſt, is in reſpect of the tradeſman very reaſonably and moderately ſtated. For perſonal tithes are the tenth part of the gains which he clears at the year's end, and he muſt be a very poor tradeſman who cannot make his clear gains amount to the rent of the houſe in which he lives. Are there not ſome, who living in houſes of twenty or thirty pound *per annum* do clear many hundreds by their trades every year? and are they not then well uſed, if inſtead of paying the tithes of all this, they pay no more than the tithe of the rent of their houſes, which very often doth not amount to the thirtieth part of what is truly due?

Here it will be objected, that all men are not traders that live in cities and larger towns, and ſome men go backward in their trades, as well as others go forward, and ſome keep at a ſtand, without either increaſing or decreaſing their ſtocks, and yet all theſe, if houſholders, muſt by this compoſition pay two ſhillings of the pound of the rents of their houſes in lieu of perſonal tithes, whereas ſince they make no clear gains by trade, they have no perſonal tithes at all to pay for; and that therefore this will be to make men pay a compoſition for tithes, where there are none at all due in kind to be compounded for. To which I anſwer,

1. Moſt of thoſe tradeſmen who go backward in their trades, or do not make any clear gains by them at the end of the year, owe it chiefly to their profuſe and improvident way of living. It is true indeed, that by the law perſonal tithes are due only out of the clear gain, and that all expences, as well for the maintenance of the trader and his family, as for the carrying on of his trade, are to be firſt deducted, and then out of the remainder only, theſe tithes are to be paid. But then it muſt be obſerved, that this deduction of expences ought only to be of ſuch * as are reaſonable and ſuitable to the condition of the perſon, and not of ſuch as are unreaſonable and extravagant: and therefore if any one doth waſte extravagantly and profuſely what would be clear gains to him at the end of the year, if he lived within that compaſs which he ought, it is to be taken notice of, that in ſo doing with his nine parts, he ſpends the miniſter's tenth, and therefore it is all reaſon that he ſhould be accountable to him for it.

2. If any one doth live in a trading place, (ſuch as are the cities and the larger towns of the kingdom) and doth not trade, no doubt he hath ſome other advantage in doing ſo, which is equivalent at leaſt to the rent of his houſe (otherwiſe certainly he would not be at the expence of that rent to live there) and therefore there will be no wrong done him in the charging him with the tithes thereof. At leaſt, by his living there without trading, he keeps out another that would trade, and therefore in this doing damage to the miniſter, it is reaſon that he ſhould make him amends for it.

3. Not only traders, but all that make any gains by any other profeſſion or employment whatſoever, as lawyers, phyſicians, attornies, ſolicitors, chirurgions, and ſuch like, are all bound by law out of their

* The ſtatute of the 2d and 3d of King *Edward* the ſixth, ſays, That only ſuch charges and expences ſhall be deducted by the trader, as are according to his eſtate, condition, or degree, chap. 13. ſect. 7.

their clear annual gains to pay perſonal tithes to their miniſters. And if it ſo happen that any do live in thoſe places where perſonal tithes are due, who do by none of thoſe ways make any gain that is liable to the payment of them, yet ſince they partake of the miniſter's ſpiritual things, there is an obligation upon them from the law of the goſpel, (1 *Cor.* ix. 11.) if not from the law of the land, that he ſhould partake of their temporal things in return thereto, and therefore none that own the goſpel ought to complain hereof.

Thus far I have ſhewn what the right of this matter is, but the greateſt difficulty ſtill remains how to remedy that which is wrong. For how firmly ſoever the right of perſonal tithes may be by law eſtabliſhed, yet as long as they cannot be proved by reaſon of the taking away of the oath of the party, they can never be recovered: And how legally ſoever this award for the paying of two ſhillings of the pound out of the rents of houſes in lieu of them, may have been made by King *Charles* the firſt, yet now after near ſeventy years are paſt, to revive it again by its own authority will ſcarce be practicable. An act of parliament is that only which can bring a thorough remedy to this evil; and three times attempts have been made by the beſt diſpoſed of the inhabitants, to induce this city to petition for it. And in the year 1677, it went ſo far, that a committee was appointed by the aldermen and common council met in their aſſembly to prepare the bill, and it was accordingly drawn; and although it was but for eighteen pence of the pound, yet that would have been an eſtabliſhment, which it was hoped would in a great meaſure have anſwered its end, could it have been effected. But when the bill was preſented, and put to the vote in a ſubſequent aſſembly, the pious deſign of thoſe worthy citizens who deſired to do right to God and his church in this matter, and had heartily laboured herein, was overpowered by thoſe who were of contrary inclinations. And ſo it hath happened in all other attempts that

have ſince been made for the effecting of it, which ſufficiently ſhews this is not the method whereby it is to be done, and therefore ſome other courſe muſt be taken of addreſſing to the parliament for it. For where the diſeaſe is notorious, a cure muſt be provided, tho' the patient (as it ſometimes happens) be ſo inſenſible as to make no complaint of it. And what a malady it is to have no eſtabliſhment for the ſupport of religion in ſo large and opulent a city, I have already ſhewn. And I can with the more freedom preſs this matter, becauſe I have no intereſt of mine own herein, as being one who will be no way advantaged by it, which way ſoever it goes, any otherwiſe than by the ſatisfaction which I muſt always take in that which will bring ſo great benefit to the church of God.

But to provide an act of parliament to remedy this evil in *Norwich* only, will be a plaiſter too narrow for the ſore. What is the caſe here is alſo the caſe of almoſt all the other cities and larger towns of the realm, where there are no predial or mixed tithes ariſing. For in all of them, as well as in *Norwich*, perſonal tithes have been wholly ſubſtracted ever ſince the ſtatute of the 2d and 3d of King *Edward* the VIth; and in every one of them this evil needeth a remedy as much as here.* In *London* and *Canterbury*, where there were ancient compoſitions for thoſe tithes ſettled upon the rents of houſes long before that ſtatute, theſe compoſitions, I acknowledge, have ſtill remained. And in *Coventry* † a compoſition of two ſhillings of the pound out of the rents of houſes hath been ſettled by act of parliament, *Anno quarto & quinto Philippi & Mariæ*, and in the 13th of Queen *Elizabeth*,‡ another act paſſed for the town of *Ipſwich*, to impower the magiſtrates of that place to lay an annual tax upon the inhabitants for the maintenance of their miniſters, which,

* Vide ſupra. † See the Award.
‡ Abridgment of the Statutes, title *Ipſwich*, fol. 238.

which, if duly executed, would there effect what is needful. But in all the reſt of thoſe cities and larger towns of the realm, and alſo in all the pariſhes of *London*, which are without the ancient liberties of that city, nothing elſe hath been left for the maintenance of God's miniſters, and the ſupport of his worſhip among them, but what every man ſhall think fit to contribute thereto. And although this in the out-pariſhes of *London*, by reaſon of the vaſt number of their inhabitants, may amount to what is conſiderable, yet in all the other cities and larger towns of the kingdom, where miniſters have nothing elſe but this to depend upon, it falls ſo much ſhort of a ſufficiency, that there, where there is moſt work for them, they are for the moſt part the worſt provided for, and the conſequence uſually is, there churches are the worſt ſerved of any other in the kingdom.

That therefore which the caſe calls for is, that ſuch a remedy be provided, as may be ſufficient to cure the whole diſeaſe, and every where remove that which is ſo publick a miſchief to the whole realm. And a general act of parliament, either for the renewing of perſonal tithes, by again reſtoring the oath, whereby they may be proved, or elſe by eſtabliſhing a juſt compoſition inſtead of them, either upon the rents of houſes, or otherwiſe, is the only way whereby it can be effected. And ſince perſonal tithes are ſtill due by the law, I cannot ſee what can be ſaid againſt the oath for diſcovering them, there being no other way whereby juſtice can be done in this caſe. Were it in a criminal matter, it would indeed be an hard caſe to bring a man upon his oath to give evidence againſt himſelf; and for this reaſon I cannot but acknowledge the oath *ex officio* to have been very juſtly taken away. But ſince in matters of common right (and that of perſonal tithes is none other) it is the uſual practice of the Chancery, of the equity-court in the exchequer, and of all Eccleſiaſtical Courts, to bring the defendant upon his oath,

oath, in anſwer to the bill or libel preferred againſt him, to make all manner of diſcoveries againſt himſelf, which ſhall be required of him in all caſes whatſoever, and this being done in all ſuits for predial and mixed tithes, as well as for all other matters, there can no reaſon be given why it may not be allowed in the caſe of perſonal tithes alſo. But ſome certain compoſition in lieu of them, upon the rents of houſes, as hath been already practiſed in ſome places, would be the beſt and eaſieſt way. In *London* two ſhillings and nine-pence of the pound, and in *Canterbury* two ſhillings and ſix-pence of the pound, have been ſettled by ancient compoſitions, and in *Coventry* two ſhillings of the pound by act of parliament, and the like was endeavoured to have been ſettled here in *Norwich*, by this award of King *Charles* the Iſt. But the bill prepared in 1677 did put it but at one ſhilling and ſix-pence of the pound. Were either of theſe rates eſtabliſhed, though the loweſt of them, there would be a certainty to depend upon, and it may be hoped that the loweſt would in ſome meaſure do the thing, and perchance in ſome towns, where trade is leſs, the loweſt of theſe compoſitions would be the propereſt, but in other places, where more is got by trade, as the perſonal tithes would there be higher, ſo it is juſt that in them an higher compoſition ſhould be paid in lieu of them. And if what I have ſaid above be of any force to plead for this remedy in *Norwich*, it muſt be alſo of the ſame force to plead for it every where elſe in this realm, where the caſe is the ſame, and that it might do ſo is the chief reaſon of my preſent publiſhing of theſe papers.

While this matter remains in the ſame ſtate as at preſent, there are theſe manifeſt abſurdities and unreaſonable abuſes in it

1ſt, That while the countryman pays the full tithes of his income, the rich tradeſman and the wealthy merchant, who make five times the gains, and with five times more eaſe, pay nothing at all.

2. While

2. While in mean country villages there are in many of them large endowments for miniſters; in the cities and larger towns of the realm, where the moſt of the riches and the greateſt wealth of the nation is, there are none at all, or elſe ſuch mean and poor ones, as are altogether as uſeleſs to the end intended, as if there were none.

3. The conſequence of this is, that thoſe pariſhes which by reaſon of the largeneſs of their cures, the politeneſs of the inhabitants, and the greatneſs of the miniſterial work to be there performed, have moſt need of the ableſt and beſt miniſters to take care of them, are too often provided with the worſt; and the miniſterial duites there diſcharged in the loweſt and meaneſt manner, where all the circumſtances of the place call for them in the higheſt. In all other chriſtian countries the beſt endowments for miniſters are in thoſe towns and cities, where there is the moſt work for them, and the moſt need of the beſt abilities for the ſucceſsful performance of it, and accordingly they are always the beſt provided for. But in this land, as if we were the antipodes in this matter to all the world beſides, and alſo to reaſon itſelf, all is quite the contrary: the beſt proviſions for miniſters here are in country villages, where there is the leaſt need of the ableſt men, and none at all in cities and larger towns, where there is the moſt need of them. And how abſurd and prepoſterous this is, is too manifeſt to need that I ſay any more about it.

But were this rectified in the manner as I propoſe, there would not only be a thorough reformation of theſe abſurdities and abuſes, but alſo many great benefits would accrew herefrom both to church and ſtate.

1. It would very much conduce to the preſerving of the peace both of church and ſtate, in keeping out ſchiſms and hereſies from the one, and faction and rebellion from the other. The manner how it would do ſo I have already ſhewn, and therefore need not here again repeat it.

2. It

2. It would very much conduce to the reforming of the nation. For how much the cities and larger towns influence the reſt of the kingdom is well known, and therefore were religion, virtue, and ſobriety made to flouriſh in them, it would certainly be the readieſt way to make it ſo every where elſe. And what readier courſe can be taken to bring this to paſs, than by placing in all thoſe cities and towns ſuch miniſters as are the beſt able to effect it? And this would ſoon be done, were there ſuch ſettlements made in thoſe places, as would be encouragements ſuitable for them.

3dly, It would be the readieſt way to improve the whole body of the clergy in learning, piety, and ſober living. For were the learnedſt, and worthieſt of the clergy ſettled in the cities, and the larger towns of the kingdom, they would be there as burning and ſhining lights placed on the top of an hill, from whence they would tranſmit their influence to all the vallies beneath, and all the reſt of their brethren would be guided and enlightened by the benefit hereof. For the cities and larger towns of the realm are the places where the clergy of all the neighbourhood round, as well as the laity, make their chiefeſt reſort, and according as they find the notions and practices of miniſters in thoſe places, they do moſt commonly frame their own. We have found that ill men ſettled in thoſe places have hereby had an influence over their brethren in the neighbourhood to corrupt them in their principles, and miſguide them in their practices, and therefore were it ſo ordered that good men were always placed in them, why might we not expect they would have as ſtrong an influence on the other hand to guide them aright, and reform them?

4thly, It would lay a foundation for the likelieſt method to reform the city of *London*, which is the great foundation of corruption, from whence hath flown all that deluge of vice and iniquity which doth at preſent in ſo large and lamentable a manner over-

flow

flow this land. For moſt of it there hath its riſe from the out-pariſhes, where the people have ſcarce any benefit, either from magiſtrate or miniſter, the ordinary magiſtrates there being moſtly ſuch, who inſtead of ſuppreſſing vice and debauchery, look on themſelves as appointed only to make gain of their places by licenſing and encouraging it; and the miniſters too few for the fiftieth part of the inhabitants. For ſome of thoſe pariſhes are ſo large, that ſhould all the inhabitants come to the pariſh church, there would not be room for them there in their turns above once in a year. So it is in the pariſh of *Stepney*, and ſo it is in the pariſh of St. *Giles Cripplegate*, and ſo in ſome proportion in moſt of the other out-pariſhes, from whence it comes to paſs, that abundance of people living in thoſe pariſhes are as much ſtrangers to religion, and all the power and influence thereof, as any of the heathens, either in the *Eaſt* or the *Weſt-Indies*, and need as much the care of the ſociety *de propagando Evangelio* to convert them as any of thoſe. And this being the caſe of thoſe pariſhes, what elſe can be expected but that all manner of vice and iniquity ſhould there abound, where there is neither law nor religion to reſtrain it? But were there the ſame law for theſe out-pariſhes, that there is for the body of the city, and the houſes without the liberties made pay the ſame compoſition in lieu of perſonal tithes for the maintenance of their miniſters, as they are within, then every hundred and fifty, or two hundred houſes at moſt, would be able to maintain a Miniſter, a Lecturer, and a Reader. And were theſe vaſt pariſhes thus divided into many, then the miniſter's care might be large enough for all his people, and every one of them partake of the benefits of his miniſtry. And were theſe pariſhes, being thus conſtituted, diſtributed into wards, in the ſame manner as in the city, putting two or three of them into a ward, and a proper magiſtrate appointed with the authority of a juſtice of the peace over every ward, out of the worthieſt and moſt ſubſtantial of the inhabitants, ſuch

an one as would really ſuppreſs vice, and not licence and encourage it for gain; we might then hope from the miniſter and the magiſtrate thus joined in the work, a thorough reformation of manners in the corrupteſt parts of the city. And how much this would have an influence to reform the whole nation alſo, is eaſy to be diſcerned. And till this method be taken, it is ſcarce poſſible to conceive any other way whereby it can be effected.

5thly, It will be the certaineſt way to make the whole ſtate of the land to flouriſh. *Solomon* tells us, that *Righteouſneſs exalteth a nation*, Prov. xiv. 34. and the experience of all ages hath juſtified the truth hereof. For vice, wickedneſs, and unrighteous dealings among men, are great diſeaſes in any ſtate, and whenever they prevail, introduce ſuch diſorders into its whole œconomy, as will ſoon make it languiſh and decay. But where righteouſneſs, virtue, and ſobriety do flouriſh, they bring all things to their due craſis, and always eſtabliſh the ſoundeſt ſtate of health and vigor in the public body of the common wealth. And in whatſoever people or nation there is moſt of this, there always ſhall we find them moſt happy within themſelves, and moſt formidable to all others that would riſe up againſt them. And what is there that can more powerfully preſs upon men theſe duties, or more ſtrongly oblige them to the obſervance of them, than the holy Chriſtian religion which we profeſs? And therefore what method is there that can be more effectual for the inducing of all men to the practice of them, than the ſettling of a ſufficient and able miniſtry in all places to inſtruct them herein? But how can this be, as long as the cities and greater towns of the realm be ſo ill provided with a maintenance for them? Let this fault be mended either in the manner which I have propoſed, or any way elſe, as the government of the nation ſhall think fit, and then the goſpel of Jeſus Chriſt being fully preached unto our people, it will have its full power and influence over them, to make piety, righteouſneſs,

teouſneſs, ſobriety, and every virtue to flouriſh in our land, and whenever they do ſo, they will become the moſt effectual means to make every thing elſe among us to flouriſh alſo.

And to remove ſuch abuſes, and gain ſuch benefits to the public good of the whole realm, as I have here mentioned, is certainly cauſe enough for the Legiſlature of the kingdom to interpoſe herein, and that they ſhould do ſo, there are theſe reaſons eſpecially obliging them hereto.

1. Becauſe the evil hath all proceeded from their own act, and therefore it muſt lie at their doors, till it be reformed. It is indeed a corruption of the law, which they never intended. For in the ſtatute of the 2d and 3d of King *Edward* VI. they do enact and confirm the payment of perſonal tithes in as full and expreſs words as can well be deviſed; and by vertue hereof, in all places where they were uſed to be paid within forty years before, they are ſtill as much due by the law of the land, as any other tithes whatſoever. But they having taken away the oath, whereby only they could be proved, advantage hath been taken hereof to ſubſtract them ever ſince. And this being the only reaſon that now they are no more paid, or any thing elſe in lieu of them, it is manifeſtly a corrupt practice contrary to law. But however ſince they that made the law, are bound to reform all the corruptions of it; they cannot be excuſed 'till this be done. I acknowledge no law can be made, how good and right ſoever it be, which wicked and corrupt men will not find ways to pervert, or fruſtrate; neither is it within the power of human foreſight fully to provide againſt it. But when the corruptions do appear, and the flaw becomes diſcovered by the evil practices that follow, then thoſe who made the law are bound to interpoſe their authority to remedy the fault, and prevent all the ill conſequences of it, otherwiſe they make it their own. For not to reform the evil in this caſe, is to approve it; and although they never deſigned

it in the original draught, yet if they permit it to continue without check or amendment, when it is fully ſeen and diſcovered, they then own it by ſuffering it, and do in conſequence make themſelves as much the authors of it, as if they had really been ſo in the firſt intent of the law itſelf, and muſt be altogether as much anſwerable to the ſupreme Governor of all things for the iniquity of it. And therefore allowing that the ſubſtraction of perſonal tithes, by vertue of the ſtatute of King *Edward* the VIth, was not intended by the law, but is a meer corruption of it (as moſt certainly it is), that is reaſon enough why it ſhould be no longer borne. And it being a corruption of that high nature, that it deprives God of his worſhip, and his miniſters of their rights, makes ſo many of the people of the land ſacrilegious, and draws after it all the other ill conſequences which I have above-mentioned, it certainly makes it in the higheſt manner the duty of thoſe who have authority over the laws, to reform and amend it. And both the nature of their truſt, and the heinouſneſs of the thing itſelf, call loudly upon them for it; and 'till they have done this, they approve of the evil by ſuffering it, and conſequently involve themſelves in all the guilt thereof.

2. Since it is on all hands allowed that a competency for the ſupport of God's miniſters is due by God's law, it is the duty of the ſupreme government in every chriſtian ſtate to ſet apart this competency, and perſerve it, when ſo ſet apart, from being by any corruption or injuſtice diverted from the end intended. And how much then muſt they fail of this duty, if they fail of doing ſo in thoſe cities and larger towns, where there is the moſt need of it? Here the ſervice of God muſt ſuffer moſt for the want of it, and therefore here certainly it muſt be the greateſt breach of duty to ſuffer this want to be.

3. It is not a luxurious, or a pompous maintenance, which I move for, or ſuch an augmentation of revenue, as ſhall enable the miniſters of religion

to

to enrich their families, and leave eſtates behind them to their heirs, but only ſuch a proviſion as is neceſſary for the carrying on of God's work entruſted in their hands, and the putting of them in ſuch a ſtate and condition of living, as may enable them to labour therein with that ſucceſs which is requiſite. And that ſuch a competent maintenance be provided for them, the very nature of the thing itſelf makes it abſolutely neceſſary, and the law of God doth alſo poſitively command it. And to make the maintenance provided to be thus competent, it muſt be ſuch as ſhall be ſufficient to anſwer its end in all the particulars I have above-mentioned, otherwiſe it will not come up to the reaſon of its appointment, or the fulfilling of that law of God, which commands it to be provided for them. For as the church may be ſurfeited by a too plentiful and luxurious proviſion, ſo may it be ſtarved to death for want of a competent one. That this competency of maintenance hath been wanting in the cities and larger towns of this realm ever ſince the withdrawing of perſonal tithes, and that hereby the law of God is broken, his worſhip inſufficiently provided for, and the ſouls of men neglected in them, is that which we complain of. And that this deficiency may be ſupplied, and a maintenance for God's miniſters ſettled in all thoſe places in ſuch a competent and ſufficient manner, as that God's law may be obſerved in this particular, his worſhip duly provided for, and the ſouls of men thoroughly taken care of, is all which in this treatiſe is pleaded for.

Norwich,
Sept. 10, 1706.

POST-

POSTSCRIPT.

I Had no ſooner determined to put this Tract of Dr. *Prideaux*'s, now grown ſcarce, again to the preſs, than it occurred to me, that the deſign of its re-publication, at this *particular juncture*, would be more fully anſwered, if the ſubſtance of the *Statute of Philip and Mary, for the payment of Tithes in the city of Coventry*, was annexed to it, as the perſons to whom it is more immediately addreſſed, would thereby have an eaſy opportunity of comparing it with the preceding *Award*; and, from the ſtriking *ſimilarity of circumſtances* that ſubſiſts between them, be the better enabled to form a proper judgment of their *common pretenſions* to reaſon and juſtice. Such an *abſtract*, therefore, of that *act*, as I was capable of drawing up, who profeſs myſelf to be no *lawyer*, is hereunto ſubjoined.

Should this pamphlet happen to fall into the hands of the *Norwich* clergy, I muſt intreat their indulgence for the omiſſion of a few pages of the *Vindication*; in lieu whereof, I beg leave to ſubſtitute my ſincereſt Wiſhes for their Succeſs, whenſoever they ſhall be induced to renew their application for that *competent proviſion*, which the *Royal Martyr* plainly intended for them, and which the *worthy Dean* hath ſo inconteſtably ſhewn to be their *due*.

By

By the Statute of the 4th and 5th of *Philip* and *Mary*, for the Payment of Tithes in the City of *Coventry*, it is enacted:

1. *THAT the citizens of* Coventry *shall yearly, without fraud or covin, for ever pay to their respective Vicars, for every* ten shillings *rent of all houses, shops, warehouses, cellars, and stables, within the said city and liberties of the same,* twelve pence; *and for every* twenty shillings *rent,* two shillings, *and so ascending for every* ten shillings.

Every house, &c. of 10s. rent, to pay 12d. —— and of 20s. rent, 2s. and so above in proportion.

2. *That if any dwelling-house, shop, &c. be fraudulently leased, reserving less than the customary rent, or, by reason of any fine, &c. without reserving any rent, then the farmer or tenant shall pay after the same rate the said house, &c. was last lett for, without fraud or covin.*

Houses, &c. leased for less rent than usual, or without rent, to pay tithes according to the *last* rent;

3. *That if the owners hold their houses, &c. themselves, then they shall pay tithe after the rate aforesaid, or after such rent as those houses, &c. shall be rated at by the Lord Chancellor's commissioners.*

as shall houses, &c. in the occupation of the owners, or after a rate fixed by commissioners.

4. *That if any person take a house by lease, and he or his executors, &c. live in any part thereof, and set out part, the principal farmer or taker, his executors, &c. shall pay for his share after the rate abovesaid, and the occupiers of the residue according to the rent it is set at. And if any person takes a lease of several houses, and lets out part, and holds a part himself, then such taker shall pay for what he holds after the rate aforesaid, and his assigns for the remainder.*

Where *divers* persons dwell in the same house, the first taker to pay tithe, as aforesaid, and the rest according to their respective rents: and *one* person taking divers houses, shall pay tithe for what he retains, and his assigns for the rest.

5. *That if any such farmer, or his assigns, shall lett out all the houses, &c. contained in his lease, to one, or to divers tenants, then the tenants shall pay their tithes according to the rent reserved.*

Houses, &c. being united or divided, to pay according to the accustomed proportion,

6. *That if any dwelling-houses shall be converted into warehouses, malt-houses, &c. or the contrary, yet they shall pay tithe after the rate aforesaid.*

and so also if converted to other uses.

7 *That*

Where utenſils are lett with workhouſes, the 3d penny to be abated.

7. *That if any dye-houſe, brew-houſe, &c. be lett with the implements, then a third penny of the tithes ſhall be abated.*

Leaſe taken at a lower rent than uſual, on account of ruins, tithes to be paid accordingly.

8. *That if any tenement ſhall, by reaſon of any great ruin, or decay, be leaſed at a leſs rent than cuſtomary, then the tithes, during ſuch leaſe, ſhall be paid only after the rent reſerved.*

Shops, &c. being united to a houſe, ſhall pay to the full rent, if divided from it.

9. *That when any houſe, with ſhops, ſtables, ware-houſes, timber-yards, tenter-yards, gardens, or orchards thereunto belonging, and occupied together, ſhall afterwards be ſevered, then the farmers of ſuch ſhops, &c. ſhall pay their tithes according to their ſeveral rents.*

Renters of 10s. or more, to pay no offerings; but each of the Family 2d. yearly.

10. *That every houſeholder paying* ten ſhillings *rent, or above, ſhall be acquit of his offerings; but his wife, children, ſervants, &c. taking their rites of the church at* Eaſter, *ſhall pay* two-pence *yearly.*

Houſes of 10s. rent, or above, if lett into ſmall parcels, tithe ſhall be paid by the owner, or principal leſſee.

11. *That if any houſe of* ten ſhillings *rent, or above, ſhall be lett by parcels under the rent of* ten ſhillings, *then the owner, if he live in any part thereof, or the chief tenant, ſhall pay the tithe after the rate which the ſaid houſe was accuſtomably lett for before ſuch diviſion, and the ſub-tenant ſhall pay only* two-pence *yearly.*

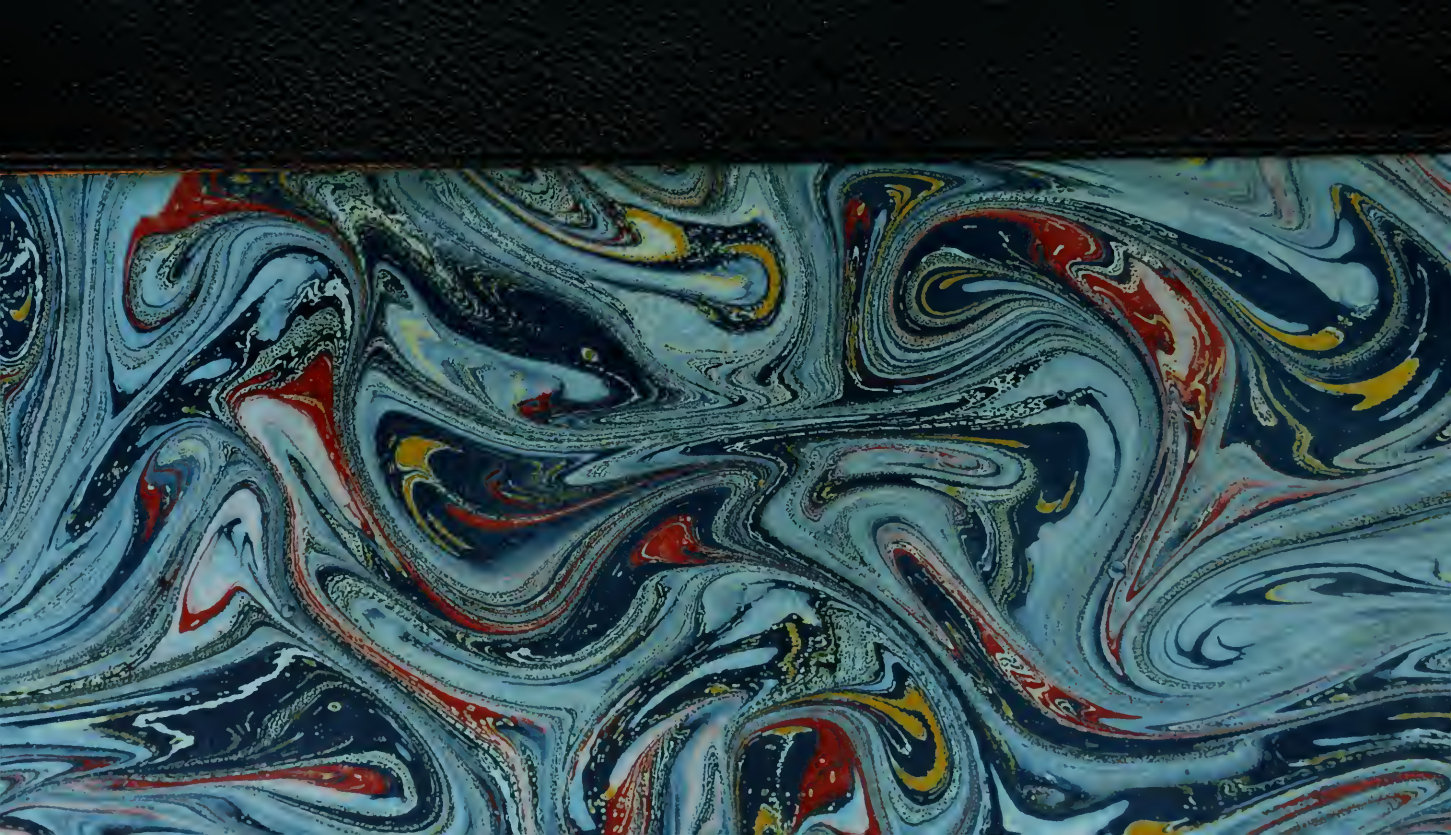
Gardens for pleaſure to pay no tithe; but otherwiſe if for profit; and ſo if divided into leſs quantities.

12. *That no tithe ſhall be paid for gardens which are held for pleaſure; but if any gardens contain half an acre, or more, and yield any profit by ſale, then they ſhall be paid for after the rate above ſpecified; and alſo, if divided into leſſer quantities.*

Tithes to be paid quarterly.

13. *That theſe tithes ſhall be paid quarterly, viz. at* Eaſter, Midſummer, Michaelmas, *and* Chriſtmas.

All Controverſies to be determined by the Mayor, or (if the Mayor do it not in a month) then by the Ld. Chancellor and the two Chief Juſtices.

14. *The* Mayor *of* Coventry, *by the advice of council, is authorized by this act, to hear and determine all differences ariſing thereupon, and to give coſts; but if the* Mayor *do not make an end of ſuch differences within a month after complaint; or if any perſon find himſelf aggrieved, then the* Lord Chancellor, *together with the two* Chief Juſtices of England, *ſhall make an end of the differences with coſts.*

THE END.